MONTANA LEGISLATIVE HISTORY

Chapter 528 19 87

Bill H 406 S _____ Original bill & history X C

H. Committee on Fish + Game			S. Committee on Fish & Game		
Hearing Date(s)	1/29	X C	Hearing Date(s)	3/26	X C
Exec Action	2/17	X C	& Exec Action		C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/23 SIGNED BY PRESIDENT

3/23 TRANSMITTED TO GOVERNOR
3/27 SIGNED BY GOVERNOR
CHAPTER NUMBER 245 EFFECTIVE DATE: 10/01/87

HB 402 INTRODUCED BY STRIZICH
RECORDS RETENTION RULES FOR MENTAL HEALTH FACILITIES

1/22 INTRODUCED
1/22 REFERRED TO HUMAN SERVICES & AGING
2/03 HEARING
2/03 COMMITTEE REPORT--BILL PASSED
2/05 2ND READING PASSED 94 1
2/06 3RD READING PASSED 99 0

TRANSMITTED TO SENATE
2/10 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
3/04 HEARING
3/19 COMMITTEE REPORT--BILL CONCURRED
3/23 2ND READING CONCURRED 48 0
3/25 3RD READING CONCURRED 49 0

RETURNED TO HOUSE
3/28 SIGNED BY SPEAKER
3/30 SIGNED BY PRESIDENT

3/30 TRANSMITTED TO GOVERNOR
4/03 SIGNED BY GOVERNOR
CHAPTER NUMBER 333 EFFECTIVE DATE: 10/01/87

HB 403 INTRODUCED BY COHEN
ADDS PENALTY SECTION TO COUNTY PLANNING AND ZONING COMMISSION LAWS

1/22 INTRODUCED
1/22 REFERRED TO LOCAL GOVERNMENT
2/06 HEARING
2/06 TABLED IN COMMITTEE

HB 404 INTRODUCED BY HARP, ET AL.
PROVIDES A TIME LIMIT FOR CENTERLINE DECISIONS

1/22 INTRODUCED
1/22 REFERRED TO NATURAL RESOURCES
1/30 HEARING
2/11 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/13 2ND READING PASSED 93 4
2/14 3RD READING PASSED 94 0

TRANSMITTED TO SENATE
2/16 REFERRED TO NATURAL RESOURCES
3/11 HEARING
3/12 COMMITTEE REPORT--BILL CONCURRED
3/17 2ND READING CONCURRED 50 0
3/19 3RD READING CONCURRED 49 0

RETURNED TO HOUSE
3/23 SIGNED BY SPEAKER
3/23 SIGNED BY PRESIDENT

3/24 TRANSMITTED TO GOVERNOR
3/27 SIGNED BY GOVERNOR
CHAPTER NUMBER 246 EFFECTIVE DATE: 3/27/87

HB 405 INTRODUCED BY GRADY, ET AL.
PETITION FOR FEE ON LANDOWNERS TO FUND VOLUNTEER FIRE COMPANY

1/22 INTRODUCED
1/22 REFERRED TO LOCAL GOVERNMENT
2/06 HEARING
2/13 TABLED IN COMMITTEE

HB 406 INTRODUCED BY GRADY, ET AL.
LICENSING OF OUTFITTERS BY BOARD OF OUTFITTERS IN DEPARTMENT OF COMMERCE

1/21 RULES SUSPENDED TO ALLOW INTRODUCTION
1/22 INTRODUCED
1/22 REFERRED TO FISH & GAME
1/23 FISCAL NOTE REQUESTED
1/26 FISCAL NOTE RECEIVED
1/29 HEARING
2/19 COMMITTEE REPORT--BILL PASSED AS AMENDED
STATEMENT OF INTENT ADOPTED
2/21 2ND READING PASSED 86 9
2/23 3RD READING PASSED 90 9

TRANSMITTED TO SENATE
3/02 REFERRED TO FISH & GAME
3/26 HEARING
3/27 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
3/30 2ND READING CONCURRED 33 12
3/30 3RD READING CONCURRED 42 8

RETURNED TO HOUSE WITH AMENDMENTS
4/07 2ND READING AMENDMENTS CONCURRED 78 11
4/08 3RD READING AMENDMENTS CONCURRED 81 11
4/11 SIGNED BY SPEAKER
4/13 SIGNED BY PRESIDENT

4/13 TRANSMITTED TO GOVERNOR
4/17 SIGNED BY GOVERNOR
CHAPTER NUMBER 528
SECTION 13 -- EFFECTIVE DATE: 4/17/87
SECTIONS 1-12, 14 -- EFFECTIVE DATE: 10/01/87

HB 407 INTRODUCED BY GRADY, ET AL.
NONRESIDENT LANDOWNER RESIDENCY EXCEPTION FOR BIG GAME LICENSE
BY REQUEST OF DEPARTMENT OF FISH, WILDLIFE, & PARKS

1/22 INTRODUCED
1/22 REFERRED TO FISH & GAME
1/23 FISCAL NOTE REQUESTED
1/26 FISCAL NOTE RECEIVED
2/03 HEARING
2/17 TABLED IN COMMITTEE

HB 408 INTRODUCED BY IVERSON, ET AL.
PROVIDES THAT RESERVED WATER MUST BE USED IN THE BASIN OF DIVERSION
BY REQUEST OF WATER POLICY COMMITTEE

1/22 INTRODUCED
1/22 REFERRED TO NATURAL RESOURCES

HOUSE BILL NO. 406

INTRODUCED BY GRADY, BRANDEWIE, MENAHAN, HANSON

IN THE HOUSE

JANUARY 21, 1987	ON MOTION, RULES SUSPENDED TO ALLOW INTRODUCTION OF HB NO. 406.
JANUARY 22, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
FEBRUARY 19, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.
FEBRUARY 20, 1987	PRINTING REPORT.
FEBRUARY 21, 1987	SECOND READING, DO PASS.
	ENGROSSING REPORT.
FEBRUARY 23, 1987	THIRD READING, PASSED. AYES, 90; NOES, 9.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
MARCH 27, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 30, 1987	SECOND READING, CONCURRED IN.
	ON MOTION, RULES SUSPENDED AND BILL PLACED ON THIRD READING THIS DAY.
	THIRD READING, CONCURRED IN. AYES, 42; NOES, 8.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 7, 1987	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 8, 1987	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.

House BILL NO. 406

INTRODUCED BY Brady (Jim Mendenhall) M Hanson

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE NAME OF THE MONTANA OUTFITTERS' COUNCIL TO THE BOARD OF OUTFITTERS; TO TRANSFER THE COUNCIL TO THE DEPARTMENT OF COMMERCE; TO TRANSFER LICENSING AUTHORITY FOR OUTFITTERS AND GUIDES FROM THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO THE BOARD OF OUTFITTERS; AMENDING SECTIONS 2-15-3403, 87-4-101, 87-4-102, 87-4-104, 87-4-127, 87-4-128, AND 87-4-142, MCA; AND REPEALING SECTIONS 87-4-105, 87-4-106, AND 87-4-144, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-3403, MCA, is amended to read:

"2-15-3403. ~~Montana---outfitters'---council~~ Board of outfitters. (1) There is a ~~Montana-outfitters'-council~~ board of outfitters.

(2) The ~~council~~ board consists of seven members. Each member shall be a licensed outfitter and shall represent one of the seven fish and game administrative districts. A member shall be selected by the licensed outfitters residing in that district by election at an annual meeting of the outfitters to be held in the city where the regional headquarters is located during the month of March. A majority vote cast by written ballot of all the outfitters in attendance at the meeting shall determine the member from the district. At the election an alternate member shall also be elected by written ballot to serve if the member is unable to act.

(3) If a member or alternate resigns or a vacancy exists for any reason on the ~~council~~ board, the ~~council~~ board at its next official meeting after the vacancy occurs shall recommend to the director of the department of ~~fish, wildlife, and parks~~ commerce the names of two licensed outfitters residing in the administrative region where the vacancy occurred to fill the vacancy for the remainder of the unexpired term. If a vacancy cannot be filled from that administrative region, the appointment must be made from an adjoining region. If a vacancy cannot be filled from an adjoining region, the appointment must be made from any remaining region. The director shall fill the vacancy from the names submitted.

(4) The members shall serve staggered 3-year terms and take office on the day they are elected.

(5) The ~~council~~ board is allocated to the department of commerce for administrative purposes only as prescribed in 2-15-121.

~~(6)--The-council-is-not-subject-to--the--provisions--of 2-15-122.~~

~~(7)--Members---of---the--council--are--entitled--to--be~~

Montana Legislative Council

LC 0868/01

INTRODUCED BILL
HB-406

~~reimbursed--and--compensated--as--are--members--of--advisory councils-in-2-15-122(5).~~"

Section 2. Section 87-4-101, MCA, is amended to read:

"87-4-101. Definitions. As used in this ~~part~~ chapter, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of outfitters provided for in 2-15-3403.

(2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

~~(1)~~(3) "License year" means that period commencing January 1 and ending December 31 of the same year.

~~(2)~~(4) "Nonresident" means a person other than a resident.

~~(3)~~(5) "Outfitter" means any person, except a person providing services on real property that he owns for the primary pursuit of bona fide agricultural interests, who:

(a) engages in the business of outfitting for hunting or fishing parties, as the term is commonly understood;

(b) for consideration provides any saddle or pack animal or personal service for hunting or fishing parties or camping equipment, vehicles, or other conveyance, except boats, for any person to hunt, trap, capture, take, or kill any game and accompanies such a party or person on an expedition for any of these purposes;

(c) for consideration furnishes a boat or other floating craft and accompanies any person for the purpose of catching fish; or

(d) for consideration aids or assists any person in locating or pursuing any game animal.

~~(4)--"Outfitters'-council"----means----the----Montana outfitters'-council-provided-for-in-2-15-3403.~~

~~(5)~~(6) "Professional guide" means a person who is an employee of an outfitter and who furnishes only personal guiding services in assisting a person to hunt or take game animals or fish and who does not furnish any facilities, transportation, or equipment.

~~(6)~~(7) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102.

~~(7)~~(8) "Participant" means a person using the services offered by a ~~license~~ licensed outfitter or professional guide."

Section 3. Section 87-4-102, MCA, is amended to read:

"87-4-102. Determination of what constitutes consideration. The providing of the services, property, or equipment mentioned in 87-4-101~~(3)~~(5) or the advertising of services to assist persons to hunt, pursue, or take wildlife or to fish shall be presumed to have been for consideration for the purposes of this ~~part~~ chapter."

Section 4. Section 87-4-104, MCA, is amended to read:

"87-4-104. Powers and duties of ~~department~~ board relating to outfitters and guides. The ~~department~~ board shall:

(1) prepare and publish an information pamphlet which contains the names and addresses of all licensed outfitters. This pamphlet shall be available for free distribution as early as possible during each calendar year but not later than the second Friday in March. The pamphlet shall contain the names and addresses of only those outfitters who have a valid license for the current license year. The costs of publication of the pamphlet shall be paid from the state special revenue fund, fish and game account.

(2) cooperate with the federal government through its appropriate agencies or instrumentalities in matters of mutual concern regarding the business of outfitting and guiding in Montana;

~~(3)--establish-a-minimum-of-two-meetings-annually--with the-outfitters'-council;~~

~~(4)--consult--with--the--outfitters'-council-to-develop policy-concerning-the-administration-of-outfitting;~~

~~(5)--designate-a-warden-with-no--conflict--of--interest whose--primary--duties--are--to--administer--outfitting--and guiding-laws-and-regulations;~~

~~(6)~~(3) when the fish and game commission determines it necessary to protect the fishing resource, public health,

public safety, or public welfare, establish and regulate a moratorium ~~on~~, applicable to either or both the Madison River or the Big Hole River, on the issuance of outfitter licenses for the purpose of float fishing, as defined in 87-4-101~~(3)(c)~~(5)(c), except that those fishing outfitters licensed in 1980 may receive renewal licenses, if qualified. The total number of professional guide licenses endorsed by fishing outfitters under a moratorium may not be less than the total number issued in 1980.

(4) establish outfitter standards and professional guide standards;

(5) adopt:

(a) rules of procedure;

(b) rules to administer and enforce this chapter, including but not limited to rules prescribing all requisite qualifications for licensure. These qualifications must include training, experience, knowledge of rules of governmental bodies pertaining to outfitting, and condition and type of gear and equipment; and

(c) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the health, safety, and welfare of those persons using the services of outfitters and for the protection of landowners and the general public;

(6) hold hearings and proceedings to suspend or revoke licenses of outfitters and professional guides for due

cause."

Section 5. Section 87-4-127, MCA, is amended to read:

"87-4-127. Fees. (1) The ~~department~~ board shall establish fees commensurate with costs as provided in 37-1-134.

(2) Applications shall be accompanied by a license fee as specified by the ~~department~~ board.

(3) If a nonresident resides in a state requiring residents of the state of Montana to pay in excess of the amount established by the ~~department~~ board for a similar license, the fee for such nonresident outfitter's or professional guide's license shall be the same amount as the higher fee charged in the state where the nonresident resides. ~~All--fees--collected--under--this--part--shall--be deposited-as-provided-in-87-1-601.~~

(4) The license fee shall be used to investigate the applicant, to enforce this part, and for administrative costs."

Section 6. Section 87-4-128, MCA, is amended to read:

"87-4-128. Investigation of applicant -- issuance or denial of license. (1) The ~~director-in--his--discretion--may cause--to--be-made-such-additional-investigation-and-inquiry relative-to-the~~ board shall investigate each applicant for an outfitter's or professional guide's license and ~~an applicant's~~ determine his qualifications ~~as--he--considers~~

~~advisable~~.

(2) The ~~director~~ board may deny or refuse to issue any new license or to renew any previous license if~~,--in-his opinion,~~ the applicant does not meet the qualifications herein stated. In the event that any application for license is denied or refused, the ~~director~~ board shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) Final decision as to issuance of renewal licenses shall be made not later than 30 days from the date of receipt of the completed application for renewal and not later than 90 days from the date of receipt of a completed application for a new license.

(4) A licensee in good standing is entitled to a new license for the ensuing license year upon complying with the provisions of this ~~part~~ chapter, ~~and~~ completing an application for license renewal on a form provided by the ~~department~~ board, and payment of the renewal fee, but is exempt from having to retake the written examination.

(5) An outfitter licensee must make an application for license renewal by January 1 of the license year. A penalty fee of $50 will be charged in addition to the regular resident or nonresident outfitter's license fee if the application for such license is not completed and made by January 1 of the license year. This subsection does not

apply to a new applicant for an outfitter's license."

Section 7. Section 87-4-142, MCA, is amended to read:

"87-4-142. Procedure for suspension or revocation of license -- reissuance. (1) Proceedings for the revocation or suspension of a license issued hereunder may be taken upon charge or recommendation of any person. All such charges or recommendations must be made in writing, must state the facts upon which such charge or recommendation is based, and must be signed and sworn to by the person making the charge or recommendation. Any such charge or recommendation shall be filed with the ~~director~~ board. Thereupon, the ~~director~~ board shall initiate a preliminary investigation of all facts in connection with the charge.

~~(2)--A--copy-of-all-information-shall-be-transmitted-to-the-outfitters'-council.-The-outfitters'--council--may--make-recommendation--as--to--the--action--to--be--taken.-Any-such-recommendation-shall-be-made-in-writing-and-delivered-to-the-director-within-20-days-after-date-of--transmittal--of--such-information-to-the-council.~~

~~(3)~~(2) If the accusation be deemed to be unfounded or trivial, the ~~director~~ board shall dismiss the same and will advise the licensee charged and the complaining party of the action. ~~Should~~ If the ~~director-determine~~ board determines the charge or recommendation to have good cause and to be sufficiently founded, ~~he~~ it shall appoint a hearing officer

who shall conduct a hearing on such charges in accordance with the Montana Administrative Procedure Act.

~~(4)~~(3) The ~~director~~ board thereupon shall cause a copy of the charge~~,--recommendation-of-the-council,~~ and a record of the investigation to be served upon the licensee involved not less than 20 days prior to the day set for hearing thereon, which hearing shall be before an appointed hearing officer at a time and place set by such officer. At the hearing, the licensee involved may be represented by counsel. After full, fair, and impartial hearing, the ~~director~~ board may suspend the accused's license or his right to hold a license for a period not to exceed 3 years, may order the license revoked, or may dismiss the charge or recommendation based upon the facts shown at the hearing.

~~(5)~~(4) A revoked or suspended license may be reissued or reinstated at the discretion of the ~~director~~ board."

NEW SECTION. Section 8. Transfer of agency -- name change -- duties transferred. (1) The Montana outfitters' council is transferred to the department of commerce and is renamed the board of outfitters.

(2) The authority and functions of the department of fish, wildlife, and parks regarding licensing of outfitters and guides are transferred to the board of outfitters, and any reference in 87-4-122, 87-4-124, 87-4-125, 87-4-129, 87-4-131, and 87-4-143 to the department of fish, wildlife,

and parks or to the department or director, meaning the department of fish, wildlife, and parks or the director of that department, is changed to the board, meaning the board of outfitters.

NEW SECTION. Section 9. Codification instruction. The code commissioner shall recodify Title 87, chapter 4, part 1, as a separate chapter of Title 37, and the provisions of Title 37, chapter 1, apply. The code commissioner shall change internal references accordingly.

NEW SECTION. Section 10. Repealer. Sections 87-4-105, 87-4-106, and 87-4-144, MCA, are repealed.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB406, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act changing the name of the Montana Outfitter's Council to the Board of Outfitters and transferring the council to the Department of Commerce from the Department of Fish, Wildlife and Parks and the licensing authority to the Board from the Department level.

ASSUMPTIONS:
1. Assume FY87 budget is $48,000 as per Department of Fish, Wildlife and Parks (DoFWP) figures.
2. Assume the Board of Outfitters will be attached to DOC for administrative purposes only and therefore services provided will be the same as those provided to other boards already located in the department.
3. Assume there are 1,852 licensees providing an income of $108,700 as per DoFWP information.
4. Assume that there will be 4 meetings per year lasting 2 days each, therefore two days of meals and one evening lodging. Also, assume an average of 300 miles travel per board member per meeting.
5. Assume that the board will need $10,000 extra for contracted services to carry out any additional duties not normally carried out by DOC for administratively attached boards.
6. Assume FY88 will need $500 to adjust board rules to the new department location, etc.
7. Assume the relationship between the amount of income and expenditures will be reviewed during the biennium to see if they are in fact appropriate.

FISCAL IMPACT:

Expenditures:	FY88			FY89			Biennium
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference	Difference
Earmarked Special Revenue	$ 48,078	$ 43,314	($5,364)	$ 48,078	$ 42,545	($ 6,133)	($11,497)
Revenues:							
Earmarked Special Revenue	$108,700	$108,700	$ 0	$108,700	$108,700	$ 0	$ 0

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:
None apparent.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
The board's expenses and license fees should remain fairly constant in the future unless statutory requirements are changed or there is an increased number of licensees or an increase in litigation.

David L. Hunter DATE 1/26/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Rep Grady DATE 1-26-87
EDWARD GRADY, PRIMARY SPONSOR

Fiscal Note for HB406, as introduced.

HB 406

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:
Section 6(3) on page 8, line 9 - This is probably superceded by the Montana Administrative Procedures Act. So is Section 7 to the extent this language conflicts with MAPA.
Section 4, on line 11 and 12, page 5 state "...shall be paid from the state special revenue fund, fish and game account." Is this a correct reference considering the function transfer?

with BLM land than state lands. He stated especially if they are shooting at night not knowing which lands they are actually on.

REP. COBB asked if no law is passed, what would be the ratification.

REP. SCHYE stated if no law is passed, then it would mean it would be legal to spotlight in the state. However, you again would be looking at the problems that may occur regarding state and federal lands.

IN CLOSING, Rep. Schye stated he knows there are many concerns regarding the bill. He has many of the same concerns but he feels we must do something or we will be back in two years addressing the problem again. The current law was passed in 1977 and he feels it should be looked at. He does not want to do anything to limit the landowner, yet he feels this must be brought before the committee to see if it is even important enough to do something about. He urged the committee's consideration on HB 352.

HEARING CLOSED ON HB 353.

HOUSE BILL NO. 406: Rep. Ed Grady, District 46, sponsor, stated what this bill does is changes the name of the Montana Outfitters Council to the Board of Outfitters and transfers the council to the Department of Commerce to transfer license authority for outfitters and guides from the Department of Fish, Wildlife and Parks to the Board of Outfitters. He then went through the bill section by section explaining what each section does in the bill. He stated what prompted the bill is the Outfitters and Guides are getting to be a big business in Montana and felt it was time they were transferred to the Commerce Department so they will have a lot more control with their own board. He stated there will be some amendments proposed, when action is taken on the bill, that would give them more authority to control their own people. There are some people within the organization they are having problems with. HB 406 will give them more authority in controlling their own people. In the long run, he felt, they would be much better off and this would segregate them from DFWP. He did talk with the people at the Department and they also agreed that it was time to transfer these people to the Commerce Department. The revenue from the licenses will be transferred over to the Commerce Department and will be used expressly by the Board. The Department of Commerce has set up a budget for them to operate on and also, with the budget, it states it will pay the board for expenses for deeds and covenants of deeds. He urged the committee to give this bill ample consideration.

PROPONENTS: JEANNE KLOBNAK, representing the Montana Wildlife Federation, submitted testimony (Exhibit 3). She stated MWF has four primary reasons why it supports HB 406. They are: 1) outfitters and guides should be treated and administered as all other professional occupations in the State; 2) the Outfitters Advisory Council should be treated as a professional board as all other professional occupations; 3) the costs of administering the licensing and Council should be self supported by guides and outfitters license fees; and 4) no commercial activity, as is outfitting and guiding, should receive special advisory treatment from the Department head responsible for managing the wildlife for the citizens of the state. She emphasized the Outfitters Council has seven licensed outfitters representing Fish and Game administrative districts selected by outfitters and residing in the districts. This was done in March by vote. The Department of Commerce provides administrative and clerical services to 32 professional licensing boards as well as establishing rules and regulations. A chart has been provided which shows the similarity between Board and Council functions. (Exhibit 3a). In summary, moving the Outfitters and Guides to Commerce would further align the management of professionals, make the activities self-supporting, and remove the special interest status which the Outfitters Council shares with the DFWP. FWP should not be managing the activities of commercial business, but should manage wildlife and the hunting and fishing opportunities for all citizens regardless of their class or occupation. MWF urges the committee to give this bill a do pass.

JIM FLYNN, Director, Department of Fish, Wildlife and Parks, submitted testimony (Exhibit 4). He stated this legislation will change the name of the Montana Outfitters' Council to the Board of Outfitters, and transfer that board to the Department of Commerce along with the licensing authority for outfitters and guides. This transfer of authority from the DFWP is a move whose time has come. The FWP and the Montana Outfitters and Guides have historically worked together to develop rules and procedures which upgrades and professionalized the outfitting industry. Along with this growth, the needs of the industry for standards, insurance and other facets of the industry have developed. With the current structure, it is a growing responsibility for this agency (DFWP) to attempt to address at least some of these needs. It then becomes questionable as to how much time and effort we, as a fish wildlife and outdoor recreation agency, ought to be spending on the regulation of a viable and substantial occupation such as the outfitting and guide industry. In reviewing neighboring states, it is evident that the trend is with outfitter boards which administer all functions of the state's outfitting act and thus regulate

themselves as do other occupations in Montana. DFWP urges support for HB 406.

ANDY POOLE, representing the Montana Department of Commerce, stated they do support passage of HB 406.

TONY SCHOONEN, representing the Skyline Sportsmen in Butte, stated his organization supports HB 406 and feels this is an appropriate transfer, and also felt this would help control the number of outfitters and guides, because there was no real control at the present time.

OPPONENTS: EUGENE LEE, Chairman of the Montana Outfitters Council, submitted testimony (Exhibit 5). He stated their group neither opposes or supports the bill at this time. He stated they have not had adequate time to call a meeting or poll all of their people by mail. At this time, Mr. Lee respectfully asked for a delay on a vote on this issue at this time. He stated this is one of the few industries that is not depressed in Montana, and emphasized they would like to be sure that they better themselves with a move, or else it makes little sense or reason to actually go through with the transfer.

SMOKE ELSER, representing the Montana Outfitters and Guides Association, stated at this time, they are also not going to voice support or opposition for this particular bill. He stated they have started their research, stating they have been trying to arrange an appointment with the Attorney General in order to discuss this with him. They have also begun research and discussion with the Department of Commerce and the DFWP Director and his assistant. He stated at this time, because their membership is spread all over the state, they cannot support or oppose, because they need additional time to look this over in some depth.

RICHARD PARKS, owner of a sporting goods store and outfitting business in Gardiner, submitted testimony (Exhibit 6). He stated he is President of the Fishing and Floating Outfitters Association, the other organized outfitter group. He stated, like the outfitters and guides associations, they have not had the opportunity to thoroughly circulate the contents and implications of this bill amongst their members, so he stated this puts them in the same position the outfitters are also in as had been previously testified to. He stated; however, they would like to propose a few questions. It might be worthwhile asking who is going to be in the field to enforce the outfitter regulations? What mechanism will the board employ to inform itself of the biological concerns now brought to it by DFWP? If the board, which makes the rules, is removed from DFWP, what authority will the game wardens have in these matters? It

seems to their organization, that we may be preparing to abandon the only agency with the personnel to enforce regulations, or has something been left out? He urged the committee to not take action on this bill until all organizations had ample time to do their research and iron out the discrepancies of the bill.

DUANE NEAL, Outfitter, submitted testimony (Exhibit 7). He stated he represents around 200 outfitters in Region III. He stated, until two days ago, himself and apparently all other outfitters in the state, were unaware of this bill, that would transfer them from the Department of Fish, Wildlife and Parks to the Department of Commerce. The outfitters he has had a chance to poll via telephone, had very strong feelings both pro and con regarding this transfer. He stated, at this time, they can neither support nor oppose the bill and felt action on the bill should be delayed until the outfitting industry can be made aware of the ramifications of the bill.

RALPH HOLMAN, Outfitter, submitted testimony (Exhibit 8). He stated beyond a doubt, the industry badly needed regulation and upgrading. Those of us who support administration, licensing, and enforcement by the Department of Fish, Wildlife and Parks have always been frank and open in asking the association and all of the licensed outfitters for recommendations and other input on how to improve the Council. It was his understanding, the association was going to make recommendations in 1986, which did not materialize. Notice of HB 406 came to him a few days ago as a complete surprise, as it did to other outfitters. He stated they are realistic and can recognize that there is room for improvement. In his opinion, the Council should have more authority which we have recommended and are considering. He commented that they definitely need regulations that will serve as a prerequisite to being elected to serve on the Council. They are also strongly convinced that all 600 plus outfitters of Montana are entitled to have this issue presented to them in writing, totally clarified and have the opportunity to vote on the issue and make recommendations. This can and should be done. He is confident that a large majority will strongly oppose formation of an Outfitter Board, stating we currently have a highly qualified, ethical and important industry that brings 40-million new dollars into the economy of Montana. An industry built on 20 years of hard work by Department personnel and outfitters, is a credit to Montana. He stated, do not let the future of our industry be determined by a vocal minority or by those primarily concerned for their own pleasure. He asked the committee for their consideration in this matter and thanked them for their time.

REP. PAVLOVICH, asked Rep. Grady, that after seeing the confusion expressed by the people testifying here today, he wondered how he would feel about waiting another two years to address this issue.

REP. GRADY, mentioned the confusion seen, and stated he has been working with some of these people since the beginning of the session, and he was not aware that they were not representing the majority of outfitters out there. He stated he felt it would be well for the committee to delay action on the bill, due to the fact that they cannot seem to reach a consensus amongst the organizations.

REP. DAILY, asked Mr. Lee as stated in his testimony, that there are roughly 600 outfitters in Montana, and Rep. Daily asked him if he had any idea how many guides there are.

MR. LEE, stated he did not know the exact number, but thought it was less than 2,000. He was then informed by Smoke Elser, that there are approximately 1,200 guides.

REP. ELLISION stated he wanted to point out to the committee, that he was under the impression that this was general knowledge among the outfitters and it appears that it was not. He stated he had talked to a few of the outfitters and they were aware of the bill, and he stated it was not his intention to force something down the outfitters throats without them knowing about it. The bill was posted in ample time, and to be sure that we are indeed fair about this, if it would be a help to the outfitters and those who were unaware of this bill, he suggested putting the bill in a subcommittee to give them additional time and the opportunity to offer amendments if so desired. He stated it is the purpose of this committee to have a fair hearing on all the bills brought before them, and he stated he surely did not want to short change anyone.

REP. BULGER, stated the only point he wanted to bring out, was that in dealing with all the boards that have been organized and established, the only board that seems to be subsidized is this one, receiving $46,000 a year from hunting license fees. He felt this is a problem that could develop into further problems.

MR. HOLMAN, addressed this question stating he has always understood the outfitters have been paying for their own way and contributing to the economy of the State. However, he felt this would be perhaps a concern he had not thought about, and how it could affect other boards and organizations.

In closing, Rep. Grady stated he felt this bill did need to be put into a subcommittee, especially after hearing the concern expressed, and the objection of not having enough time to poll all the outfitters out there to see what the majority of them would want. He knew there were going to be amendments proposed to the bill, and felt this would be the best way to go about it, if we did get it into a subcommittee. He thanked the committee for their time and consideration of HB 406.

HEARING CLOSED ON HB 406.

EXECUTIVE SESSION

HOUSE BILL NO. 266: Rep. Ream moved HB 266 DO PASS. Rep. Ream then moved the amendments to the bill.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 266: REP. DAILY had questions regarding the amendment of "shall" to "may", stating "shall" means they have to do it, and by inserting "may", seems to weaken the bill, therefore, he wondered why the bill was even needed.

REP. REAM stated what follows on the top of that next page is there are lists of federally endangered species, which they are taking off from, and by changing the wording from "shall" to "may", the department does not necessarily have to put a federally listed endangered species on the state list of endangered species. They use as an example, the bald eagles in Montana. With too many wild eagles in the state, there is really no need to list them in Montana because they are already listed on the federal list. But this says they can, if in fact, they want to.

Question was then called on the amendment, the motion CARRIED with Rep. Jenkins voting NO. Rep. Ream moved HB 266 DO PASS AS AMENDED. Question being called, the motion CARRIED unanimously. See Standing Committee Report Nos. 1-4.

HOUSE BILL NO. 378: Rep. Cobb moved HB 378 DO PASS. Rep. Pavlovich then made a substitute motion to TABLE HB 378. Being a nondebatable motion, a roll call vote was taken. The motion CARRIED 11-5. Reps. Jenkins and Rapp-Svrcek has been excused to present bills in other committees and did not vote on HB 378.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 2:51 p.m.

Orval L Ellison

ORVAL ELLISON, CHAIRMAN

DAILY ROLL CALL

FISH & GAME COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date JANUARY 29, 1987

NAME	PRESENT	ABSENT	EXCUSED
ORVAL ELLISON, CHAIRMAN	X		
MARIAN HANSON, VICE CHAIRMAN	X		
RAY BRANDEWIE	X		
TOM BULGER	X		
JOHN COBB	X		
FRITZ DAILY	X		
GENE DEMARS	X		
JERRY DRISCOLL	X		
LEO GIACOMETTO	X		
ED GRADY	X		
LOREN JENKINS	X		
VERNON KELLER	X		
JANET MOORE	X		
BOB PAVLOVICH	X		
MARY LOU PETERSON	X		
JOHN PHILLIPS	X		
PAUL RAPP-SVRCEK	X		
BOB REAM	X		
STAFF: DAVE COGLEY			

EXHIBIT (5)
DATE 1-29-87
HB 406

EDUCATION - CONSERVATION

Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION

P.O. Box 3526
Bozeman, MT 59715
(406) 587-1713

Testimony on HB 406

House Fish & Game Committee

January 29, 1987

Mr. Chairman, members of the Committee, my name is Jeanne Klobnak. I stand before you today on behalf of the Montana Wildlife Federation, in their support of HB 406.

The Montana Wildlife Federation (MWF) is a conservation organization, comprised of 4600 members, dedicated to promoting wildlife, wildlife habitat, and sportsmen's interests.

The Montana Wildlife Federation has four primary reasons why its support is offered for HB 406. They are as follows:

1) Outfitters and guides should be treated and administered as all other professional occupations in the State;

2) Outfitters Advisory Council should be treated as a professional board as all other professional occupations in the State;

3) The costs of administering the licensing and Council should be self supported by guides and outfitters license fees;

4) No commercial activity, as is outfitting and guiding, should receive special advisory treatment from the Department head responsible for managing the wildlife for the citizens of the State.

Professional occupations administered by the Department of Commerce are similarily organized. They have approximately 3-9 members; members are licensed members of the occupation; and, members serve 3-5 staggered year terms.

The Outfitters Council has 7 licensed outfitters representing Fish & Game administrative districts selected by outfitters residing in the districts. This is done in March by vote. Council members serve 3 year staggered terms and are reimbursed and compensated for their time and expenses.

The Department of Commerce was implemented July 1, 1981. It has eight divisions, one of which is the Division of Business & Licensing. Formerly, this function was the Department of Professional & Occupational Licensing. The Division provides administrative and clerical services to 32 professional licensing boards as well as establishing rules and regulations. I have provided you with a chart which shows the similarity between Board and Council functions.

1-29 87
406

The expenses of administering the licensing, enforcement and Outfitters Council have not fully paid for themselves by guide ($25 resident, $100 nonresident) and outfitters ($100 resident, $250 nonresident) license fees. For example, in 1983, revenues were $94,000, and expenditures were approximately $140,000, for a net loss of $46,000 subsidized by the sportsmen license fees. If these activities were part of Commerce, the statute would require that the activities would pay their prorata share of costs. Until recently, the Department of Fish, Wildlife, & Parks didn't even keep separate financial records on outfitter/guide activities requiring them to estimate costs.

The organization chart you have before you indicates the relationship between the Outfitters Council and the Directors Office. Are Outfitters and Guides are commercial businesses, they should be treated as such. There are other small businesses which benefit from the tourism industry and non-resident hunting (groceries, sports rental companies, sports retail, etc.) which have no special formal relationship with the Director of FWP.

In summary, moving the Guides and Outfitters to Commerce would further align the management of professionals, make the activities self-supporting, and remove the special interest status which the Outfitters Council shares with the Department of FWP. FWP should not be managing the activities of commercial businesses, but should manage wildlife and the hunting and fishing opportunities for all citizens regardless of their class or occupation.

MWF urges that this committee vote do pass on HB 406.

DATE 1-29-87
HB 406

MONTANA DEPARTMENT OF
FISH, WILDLIFE & PARKS
ORGANIZATION CHART

ORGANIZATION CHART

MONTANA
DEPARTMENT OF
FISH, WILDLIFE & PARKS

September, 1983

James W Flynn
Director

Ted Schwinden
Governor

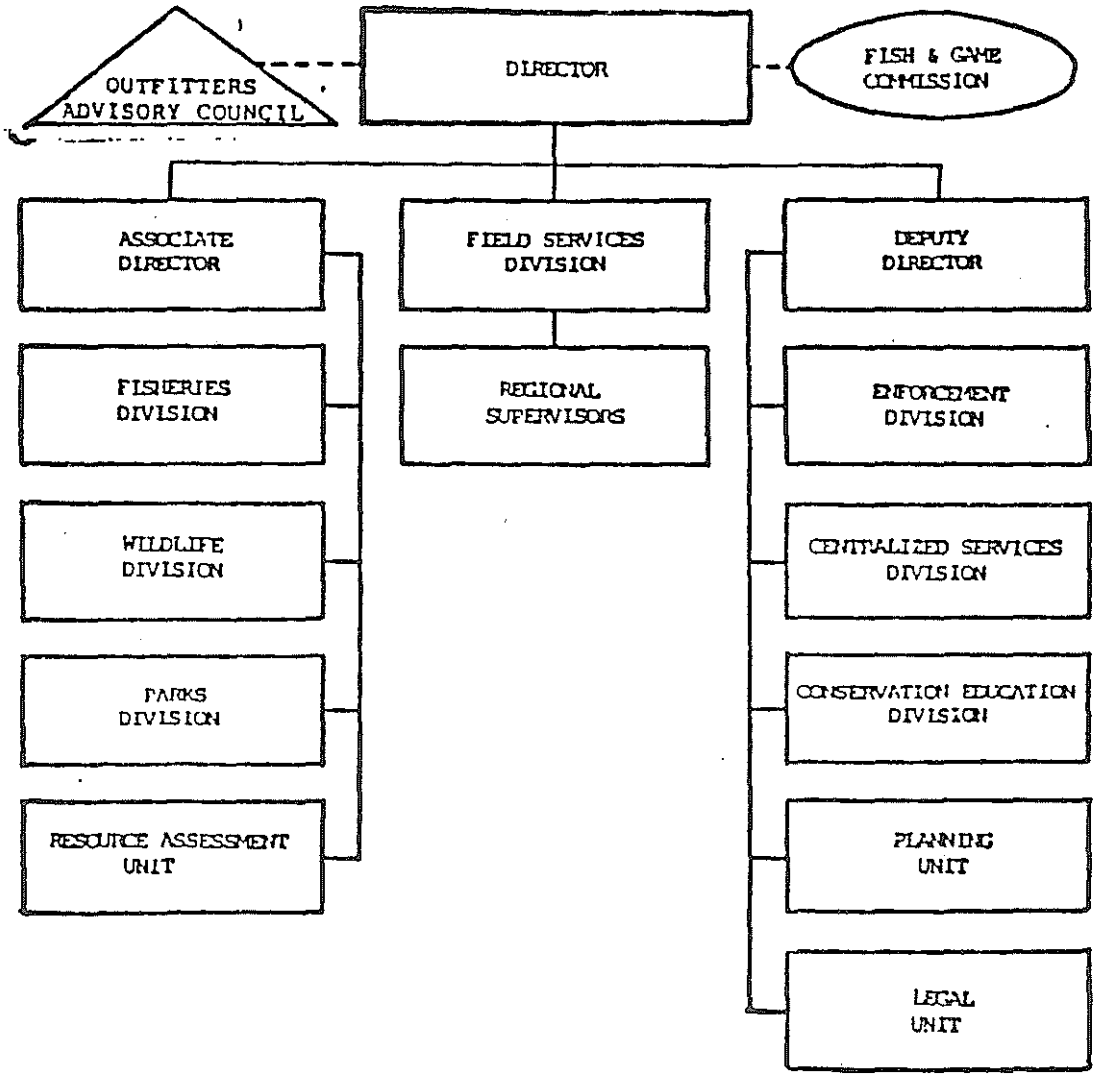

EXHIBIT 6.32
DATE 1-29-87
HB 466

FY 86 Priority Action Plan

Division - Enforcement

Priority - Outfitter Administration - Legislation in 1971 revised the Outfitter Law. An employee was designated to Administer the program and an outfitter council was created. Field responsibilities were increased and industry growth created an additional workload and expenditures.

A. Issue

Legislative authority was granted to agencies to access license fees commensurate with cost in 1983. From 1903-1971 the outfitter-guide license fee was $10. With revision of the outfitter law the fee was raised to $50 for an outfitter license and $15 for guide license. In 1983 the fee was raised to $100 for an outfitter license to $25 for a guide license. Estimates of Administrative costs were conservative and need for a data base to justify further increase was apparent. The Outfitter Council is allowed per diem, mileage and allowance while attending official meetings. This expenditure has been earned in the eforcement budget. Our conservative estimate of all expenditures in 1983 was approximately $140,000. The fee increase established was negotiated with the industry. Currently the Department derives approximately $94,000 annually from the sale of outfitter and guide licenses.

B. Objectives

To determine actual cost of administering and monitoring the outfitter law and establishing license fees commensurate with cost.

C. Approach

Effective July 1, 1985 all expenditures (salaries - mileage - per diem - equipment, etc.) on administration and field activities will be coded to an assigned project number to accurately record and document expenditures.

Region one	---	4116-01
Region two	---	4216-01
Region three	---	4316-01
Region four	---	4416-01
Region five	---	4516-01
Region six	---	4616-01
Region seven	---	4716-01

DATE 1-29-87
HB 406

Commerce Department
Duties of Board
(37-1-131)

1. Set and enforce standards and rules governing licensing and certification.

2. Sit in judgment in hearings for suspension revokation or denial of license

3. Pay its prorated share of assessed costs of department

Fish, Wildlife and Parks
Outfitters Council
(87-4-105)

1. Set outfitters and guide standards

2. Set rules of procedures and rules of qualification for license

3. Hold hearings and proceedings to suspend or revoke licenses

4. Set rules to safeguard health, safety and welfare of persons utilizing services of outfitters and protection of landowners and general public

EXHIBIT (32)
DATE 1-29-87
HB 406

Commerce Department Professions

Architects
Athletics
Barbers
Chiropractors
Cosmetologists
Dentists
Denturists
Electricians
Hearing Aid Dispensers
Horse Racing
Landscape Architects
Medical Examiners
Morticians
Nurses
Nursing Home Administrators
Occupational Therapists
Optometrists
Pharmacists
Physical Therapists
Plumbers
Polygraph Examiners
Private Security Patrolmen
Professional Engineers and Land Surveyors
Psychologists
Public Accountants
Radiologic Technologists
Realtors
Sanitarians
Social Workers
Speech Pathologists
Veterinarians
Massage Therapists
Osteopathic Physicians
Podiatry Examiners
Milk Control
Banking
Housing
Aeronautics
Coal Board
County Printing
Hard Rock Mining
MT Economic Development
Health Facility Authorization
Science and Technology

EXHIBIT (4)
DATE 1-29-87
HB 406

HB 406
January 29, 1986

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

HB 406 will change the name of the Montana Outfitters' Council to the Board of Outfitters, and transfer that board to the Department of Commerce along with the licensing authority for outfitters and guides. This transfer of authority from the Department of Fish, Wildlife & Parks is a move whose time has come. It is a move which has been imminent for sometime.

The Department of Fish, Wildlife & Parks and the Montana Outfitters and Guides have historically worked together to develop rules and procedures which upgraded and professionalized the outfitting industry.

This historic growth has been one of increasing activity in numbers of outfitters and their clients. In 1904, Montana licensed 14 guides and sold 65 nonresident big game licenses. In 1955, 173 outfitters worked in the state with 2,180 nonresident big game licenses sold. In 1985, 17,000 nonresident big game licenses were sold and there were 556 licensed outfitters. We have continued to see an increased number of outfitters and guides in 1986 and 1987. This growth parallels an increased interest in outdoor recreation by the American public. This interest, coupled with Montana's premier recreational opportunities, has increased the demand for outfitter services in various capacities such as big game hunting, float fishing and white- water rafting.

Along with this growth, the needs of the industry for standards, insurance and other facets of the industry have developed. With the current structure, it is a growing responsibility for this agency to attempt to address at least some of these needs.

It then becomes questionable as to how much time and effort we as a fish, wildlife and outdoor recreation agency ought to be spending on the regulation of a viable and substantial occupation such as the outfitting and guide industry.

In reviewing neighboring states, it is evident that the trend is with outfitter boards which administer all functions of the state's outfitting act and thus regulate themselves as do other occupations in Montana.

As mentioned, the time has come for the outfitting industry in Montana to assume its proper position, along with other professions and occupations, and to have greater control over the direction of its own destiny. We support this bill.

EXHIBIT 10
DATE 1-29-87
HB 406

WITNESS STATEMENT

NAME Eugene P. Lee BILL NO. HB 6

ADDRESS Box 311 Belfort MT 59411 DATE 1-29-87

WHOM DO YOU REPRESENT? West Outlook Council Chairman

SUPPORT _____ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

This group neither opposes or supports at this time, we have had inadequate time to call a Meeting or poll all our people by mail we respectfully request a delay in a vote on this issue at this time.

This is one of the few industries that is not depressed. We would like to insure that we better ourselves with a raise or else it makes little reason to raise.

Sincerely,

Eugene Lee

CS-34

EXHIBIT 10
DATE 1-29-87
HB 406

Fishing & Floating Outfitters
Association of Montana
P.O. Box 1372
Livingston, Montana 59047

Rep. Orval Ellison, Chm.
Fish and Game Comm.

Testimony on HB-406

Mr. Chairman, members of the Committee; for the record I am Richard Parks, owner of a sporting goods store and outfitting business in Gardiner. I am also President of the Fishing and Floating Outfitters Association of Montana which, at last count, had 227 members statewide. I have to confess that I am here as much to learn about this bill as I am to testify as it is not a product of our concerns within the industry, nor, as far as I am aware, of concerns expressed by the Outfitter Council or the Montana Outfitter and Guides Association or the Department of Fish, Wildlife and Parks.

This is not to say that such concerns do not exist and some of them were excited by my reading of the bill. People within the industry had begun discussions to prepare a revision of the outfitter law for the next session of the legislature to correct some of those problems - particularly the confusion that existed between administrative and criminal sanctions in the enforcement of the law. It is possible that the proposed change would address that simply by the change in department - if so - well and good. We were however struck by several features of the proposed changes that should be commented on.

The bulk of this proposal would simply transport the existing Outfitter Council over to the Department of Commerce and change its name to the Board of Outfitters. There is, however, a substantial addition to the powers of the new "board" included on page 6 in sections 4, 5 and 6. As an Association I think we can live with the idea that the standards by which we are to be judged would now be set by the board rather than F,W & P's **BUT,** and this is a big but; if that is to be the case the basis on which the board is selected must be changed because the current method creates an Outfitter Council which is fundamentally malapportioned. Using the F,W & P's administrative regions to apportion the board ignores the fact that about 40% of all the outfitters are in Region 3 alone. Using this method the 30% of the outfitters in Regions 4, 5, 6 and 7 elect a majority of the board. Using this election process, which takes no account of the floating outfitters' work schedules while denying them an opportunity to vote by written or absentee ballot, disenfranchises the 40% of the outfitters that our Association represents. In short, this new board with its expanded

EXHIBIT (7)
DATE 1-31-91
HB 401

WITNESS STATEMENT

NAME Duane Neal BILL NO. HB 1
ADDRESS Box 1K Fray MT DATE Jan 92
WHOM DO YOU REPRESENT? Region 3 Outfitter Delegate
SUPPORT ? OPPOSE ? AMEND ?
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.
Comments:

I represent around 200 outfitters in FWP Region III and I have served on the Outfitter Council 5 years until two days ago I and apparently all other Outfitters in this State were unaware a bill was being introduced in the Legislature removing us from the Fish & Game Department to the Commerce Department. The Outfitters had a chance to poll via telephone had very strong feelings both pro & con. At this time I am neither in support or oppose to the bill and feel action on the bill should be delayed until the outfitting industry can be made aware of the ramifications of this bill. Thank you Duane Neal

CS-34

powers must be restructured so as to fully represent the scope of the outfitting industry. I don't think that can be done with an elected board without specifying a very complicated election process. It would be simpler for the Governor to appoint outfitters to the board that, by law, had to represent diverse geographic areas and segments of outfitting. It is possible that the board would benefit by having a non-outfitter member. Naturally the terms of the members should be staggered so as to provide continuity on the board.

At the present time there is no mechanism for denying an outfitters license based on number of outfitters already in the field. It is possible that this law would establish just such a mechanism in sections 4 and 5. We urge caution in this though I can tell you that many members of our Association would love to have a value created in their license beyond the annual cost of renewal. Others are equally opposed to this creation of a "blue sky" value. At this point I can not provide you with a clear position but I can warn you of the mine field ahead. This is especially so since the industry today is often assulted by comments from the general sporting public. We think it is probable that should this bill be passed, the next word we hear would be the cry from some folks that there are "too many outfitters in Montana - they are killing all our fish and game." This would be accompanied by a demand to use the rules to reduce the number of outfitters. Some of the outfitters who figured they would survive a purge would be happy to jump on this bandwagon in order to get rid of their not necessarily less competent, but less well financed, neighbors. The premise that outfitters are somehow to blame for precieved declines in fishing quality is simply wrong - I am typical of our segment of the industry - and our clients killed a grand total of 10 trout and 15 whitefish during the 1986 season. At the same time lets be honest and admit that there are a few situations in which overcrowding is a continuing issue. We do not believe that outfitters are solely responsible for these situations nor do we believe that it is right to make them bear the sole burden of the solutions. In any case these areas are few in number and we think it better to go after solutions cooperatively, within the fish and game regulations - rather than with the meat axe of a whole new law.

It might be worthwhile asking who is going to be in the field to enforce the outfitter regulations? What mechanism will the board employ to inform itself of the biological concerns now brought to it by F,W & P's? If the board which makes the rules is removed from Fish, Wildlife and Parks than what authority will the game wardens have in these matters? It seems to me that we may be preparing to abandon the only agency with the personel to enforce regulations or have I missed something? I have not seen the fiscal note on this bill but we are also concerned that all this new process may run up the cost of our license. What will this cost us? Thank you.

EXH. 10
DATE 1-29-87
HB 406

January 29, 1987

State of Montana
Fish and Game Legislative Committee

Re: H.B. 406

Mr. Chairman and Committee Members:

My name is Ralph Holman, Outfitter, Region-5 Council member and rancher from Big Timber, Montana. My experience in the controversy relating to Council versus Board dates back to 1967 when a small group of Outfitters, members of an existing association, decided they, as stated by one, "had to straighten out all these other Outfitters" and attempted to pass legislation similar to Idaho that would turn control of outfitting over to said association.

Beyond a doubt the industry badly needed regulation and upgrading, therefore, a group of us went to work on it. I personally made a trip to Boise, Idaho and spent 3 days researching state records for documentation of the Idaho Outfitter Board's work record, which showed strong disregard for the law, discrimination, and favoritism, to put it mildly. I can give goring details, however, I point out that this was in 1970 and is not intended to reflect on the Idaho Board's operations following 1970.

In 1971, following much controversy, leaders of the outfitting groups agreed to put everything on paper, outlining two proposals; a Board or stay with Fish and Game with a Council. This was done and every outfitter in the state received a copy asking for a vote. The results were 108 votes for a Council with Fish and Game, 6 for a Board and 4 for a Board with revisions. Two factors were strongly stressed as reasons for favoring, ten to one, staying with Fish and Game Department. (1) I do not want my competitor, who wants me out of business, in a position where he can judge me and (2) cost of operating an independent Board. Compare law enforcement by a Board member subject to repercussions to a Game Warden not subject.

We also had a gentlemen's agreement that the outcome of this vote would decide the issue once and for all, however, every session since the inception of the Council in 1972, we have faced attempts to promote a Board. During one legislative session we worked with one of a past Governor's attorneys who had misinformed us that the General Fund would finance a Board. We compiled realistic cost of operation figures that showed an increase of approximately 3 times the cost of being with the Fish and Game Department. Upon being informed by the Governor's office that the industry had to totally finance the cost of the Board operation, legislation was dropped.

Those of us who support administration, licensing and enforcement by the Department of Fish, Wildlife and Parks have always been frank and open in asking the association and <u>all</u> of the licensed outfitters for recommendations and other input on how to improve the Council. It was my understanding that the association were going to make recommendations in 1986 which did not materialize. Notice of H.B. 406 came to me a few days ago as a complete suprise, as it did to outfitters in Region-5 where I have found continuing support for our present arrangement. We are, however, realistic and can recognize that there is room for improvement. In my opinion the Council should have more authority which we have recommended and are considering. We definately need regulations that will serve as a pre-requisite to being elected to serve on the Council. Proven ethical standards, experience, financial stability and operating a full time outfitting business.

EXHIBIT
DATE 1-29-87
HB 406.

ıave on several occasions, evaluated the cost of properly and efficiently conduct- a Board operation. We have seen cost figures on Board operations in Idaho and ɔrado. I am firmly convinced that the cost of properly conducting a Board, as uired by law, will far exceed our present costs. Another factor is liability. the Board revokes a license and are hit with a multi-million dollar lawsuit and gement, who do we send the bill to? If we have to double or triple license fees order to efficiently and effectively implement our duties, who faces a horde of ɪry outfitters? Who takes the abuse and critisizm that the Department now shoulders. .l the backers of this bill guarantee predicted costs and assume responsibility ' a bond to assure liability protection? We are now protected by the Department's ɔrella, let's keep it that way.

are also strongly convinced that all 600 plus outfitters of Montana are entitled have this issue presented to them in writing, totally clarified and have the portunity to vote on the issue and make recommendations. This can and should be ne. I am confident that a large majority will strongly oppose formation of an ıtfitter Board.

ınctions of the Council and our relation to the Department were thoroughly investi- ated by the Legislative Audit Review Committee and the office of Legislative Auditor n 1983, resulting in being complimented by the Auditor's office and the Committee or our joint cooperation, efforts and high qualifications. Continuation of our oint programs were highly recommended.

. have served on the Council by re-election, since inception in 1972. The Council's ɔosition has been, supported by the Department, that all outfitters are treated fairly and equally and where justified the Council have unquestionably performed their duty as required by law. The Council have worked with Department Administrative, Legal and Law Enforcement personell since inception developing 15 years of experience and expertise in addition to 5 years of work by a number of well intentioned outfitters formulating the original law. We currently have a highly qualified, ethical and important industry that brings 40-million new dollars into the economy of Montana. An industry built on 20 years of hard work by Department personell and outfitters, a credit to Montana. Twenty years ago almost anyone with a $10.00 bill could become an outfitter and extensive fraud gave good outfitters a black eye. Do not let the future of our industry be determined by a vocal minority or by those primarilly concerned for their own pleasure. Do not digress our industry 20 years. Your consideration is deeply appreciated.

Respectfully submitted

Ralph Holman

VISITORS' REGISTER

FISH AND GAME COMMITTEE

BILL NO. HB 352; HB 378; HB 406 DATE JANUARY 29, 1987

SPONSOR SCHYE; COBB; GRADY

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Richard Clark	Great Falls	?	
[illegible]	[illegible]		
ESTHER STENBERG	MT Wildlife Fed	HB 406	
Marvin Barber	MT assessors assn.	HB 406	
Janet Ellis	MT Audubon		HB 378
Lisa Jepson	Townsend		
Robert VanDerVere	Helena		HB. 378
J.P. Bender	Gt. Falls		
Jeanne C. Klebaba	MWF	HB 406	
Emska Elser	MDGA		
Dennis Hemmer	Dept of State Lands		
Bill Bryelaw	Big Timber, MT Scroll		
Lorna Frank	MT. Farm Bureau	?	? 352
Larry Workman	Eureka	?	?
Bill Mayer	Bozeman		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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MS. ELLIS stated at this time, she did not feel that peregrines should be commercialized until they were taken off the endangered species list. That was her main concern and she emphasized she had hoped she would have conveyed this to the committee in her testimony.

REP. RAPP-SVRCEK stated he was not clear on why the bill was needed and questioned why it was even before the committee.

MR. ROGERS stated in order to answer that question regarding why it was needed, they have an activity of breeding these birds in captivity for release and for recreational purposes which is to the advantage of the wild birds, conservation agencies, and falconers. It is too expensive to expect that non-institutional individuals who have made a significant contribution to these goals, can continue this without some way of being recompensated. It is recognized in 19 other states surrounding Montana. It is recognized in the Federal Government, and it is recognized by the International Association of Game and Fish agencies. They are asking the State of Montana to allow them to get their money back for the breeding of these birds. He stated in order to have access to these birds, falconry is the only way these interested individuals can do this.

REP. REAM asked Mr. Rogers regarding his testimony in which he had mentioned hybrids, what the potential problems are with hybrids.

MR. ROGERS stated that problem has been looked into. First of all, it is illegal to intentionally release them. Secondly, there has only been one chick raised out of all the attempts. And out of all the fertile female eggs, very few ever survive. He stated they have one instance of a hybrid that was defending the territory, meaning trying to solicit people. He stated they are required by law to either surgically or behaviorly sterilize them. He stated the federal and state have come to the conclusion that once they have been sterilized, there is no threat to the hybrid birds.

IN CLOSING, Rep. Ellison stated he hoped the committee had heard sufficient testimony, and urged the committee's consideration in the passage of HB 530.

HEARING CLOSED ON HB 530.

EXECUTIVE SESSION

HOUSE BILL NO. 406: Rep. Daily moved HB 406 DO PASS. Rep. Grady moved the amendments to HB 406 and distributed a copy to the committee (Exhibit 8).

QUESTION (OR DISCUSSION) ON HOUSE BILL NO. 406: Rep. Grady stated the committee members thought the penalty was built into the transfer to the Department of Commerce and the outfitters thought they would have to enforce more on their own. They wanted to build in some penalties; however, the Attorney General seemed to have written in some language. Therefore, it has been modified considerably by the amendments they had before them.

Question was then called on the amendments. The motion CARRIED unanimously. Rep. Grady then moved HB 406 DO PASS AS AMENDED.

REP. REAM asked Rep. Grady pertaining to what he had previously said about enforcement, if the DFWP had no involvement anymore. He thought they did not.

REP. GRADY stated yes, they will still get out there in the field and do the enforcement they have always done with the game wardens carrying out all their responsibilities as usual.

REP. HANSON asked if the fines were back in line with what they were in the original bill.

REP. GRADY stated ye, they are pretty much in line with the original bill.

REP. PHILLIPS asked when considering all the boards that have been organized, approximately 31, if there were any other boards where the fines and forfeitures and any penalties or fines go to that board for review.

DAVE COGLEY, Staff Researcher, stated he could not answer that, at the present time, without looking into statutes.

REP. ELLISON stated there are several boards covering the internal operations. He stated just because you have a board does not mean you can take over the administration of the laws of Montana.

REP. GRADY stated on page 13, paragraph 3, it talked about fines. He stated it says "must be deposited in the General Fund of the County in which the conviction is obtained and that 50% must be deposited in the State Special Revenue Fund for the use of the board". Rep. Phillips stated that was the part he was questioning as to whether or not there is any other board that is receiving any of this money because he knows of no other board that uses that money in this respect. Titles 45 and 46 cover this regarding misdemeanor.

REP. DAILY stated he was concerned with the time limit and he urged the committee to quit stalling on some of the bills because they needed to start moving the bills.

Question was then called on the DO PASS AS AMENDED motion on HB 406. The motion CARRIED with Rep. Rapp-Svrcek voting NO. See Standing Committee Report Nos. 1-16.

REP. GRADY then moved the Statement of Intent for HB 406 DO PASS.

Question being called, the motion CARRIED unanimously. See Page 4 of the Standing Committee Report.

HOUSE BILL NO. 568: Chairman Ellison stated there were amendments proposed by Rep. Fritz and these were distributed to the committee (Exhibit 9). Rep. Pavlovich moved HB 568 DO PASS and he also moved the amendments proposed by Rep. Fritz. Rep. Ellison explained the amendments incorporate the language that was in the original buffalo hunting bill and they met with the approval of the Fish and Game. He also explained to Rep. Grady, who voiced concerns about the amendments, that with the amendment, the bill would do just exactly in law what the statement of intent has done with the original bill.

QUESTION (OR DISCUSSION) ON HOUSE BILL NO. 568: REP. PAVLOVICH agreed with Rep. Ellison stating he was co-sponsor of the bill two years ago, and as stated by Rep. Fritz, it could have gotten out of hand. There could have been a time when the herd came out and we do not want to kill the whole herd at one time. What we want to do is get their fair share, thus, following the statement of intent of the 1985 bill brought before the committee by Rep. Menahan.

REP. DAILY then made a substitute motion to TABLE HB 568. Question was then called. A roll call vote was taken. The motion FAILED 10-8.

REP. ELLISON stated the amendments have already been moved, so the committee is back on the discussion of the amendments.

REP. BULGER moved the previous question on the amendments. Question was then called on the amendments. The motion CARRIED unanimously. Rep. Brandewie moved HB 568 DO PASS AS AMENDED. Question was then called. A roll call vote was taken, the motion CARRIED 11-7.

HOUSE BILL NO. 429: Rep. Bulger moved HB 429 DO PASS. Rep. Giacometto stated there were a couple of minor amendments. He then moved the amendments to the bill. He explained the

DAILY ROLL CALL

FISH & GAME COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb 17 [illegible]

NAME	PRESENT	ABSENT	EXCUSED
ORVAL ELLISON, CHAIRMAN	X		
MARIAN HANSON, VICE CHAIRMAN	X		
RAY BRANDEWIE	X		
TOM BULGER	X		
JOHN COBB	X		
FRITZ DAILY	X		
GENE DEMARS	X		
JERRY DRISCOLL	X		
LEO GIACOMETTO	X		
ED GRADY	X		
LOREN JENKINS	X		
VERNON KELLER	X		
JANET MOORE	X		
BOB PAVLOVICH	X		
MARY LOU PETERSON	X		
JOHN PHILLIPS	X		
PAUL RAPP-SVRCEK	X		
BOB REAM	X		
STAFF: DAVE COGLEY			

STANDING COMMITTEE REPORT

FEBRUARY 18 19 87

Mr. Speaker: We, the committee on FISH AND GAME

report HB 406

☒ do pass ☐ do not pass
☐ be concurred in ☐ be not concurred in
☒ as amended ☒ statement of intent attached

REP. ORVAL ELLISON Chairman

1. Title.
Following: line 5
Insert: "TO REVISE THE METHOD OF SELECTION OF MEMBERS;"

2. Title, line 9.
Following: "OUTFITTERS;"
Insert: "TO PROVIDE PENALTIES FOR VIOLATIONS;"

3. Title, line 10.
Following: "MCA;"
Strike: "AND"

4. Title, line 11.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR A PORTION OF THE ACT"

5. Page 1, line 18.
Following: "(2)"
Insert: "(a)"

6. Page 1, line 18.
Following: "members"
Strike: remainder of line 18 through line 17, page 2.
Insert: "to be appointed by the governor.

(b) Five members must be licensed outfitters, each of whom has a minimum of 5 years' experience as a licensed outfitter and is actively involved in the outfitting business. Each outfitter member shall represent one of the five districts designated in 2-15-3402(2). Two qualified persons in each district must be nominated for appointment by the licensed outfitters residing in that district at an annual meeting of the outfitters in that district to be held on a Saturday during March or April. A licensed outfitter who does not attend the annual meeting may assign his vote to an attending outfitter by a written and signed proxy. Only one such proxy vote may be cast by an attending outfitter. Names of nominees must be submitted to the governor, who will select one outfitter from each district to be a board member.

FIRST reading copy (WHITE color)

(c) The governor shall also appoint one member who is an employee of the department of fish, wildlife, and parks and one member from the general public.

(3) A vacancy on the board must be filled in the same manner as the original appointment."

7. Page 3.
Following: line 2
Insert: "(6) Each member of the board is entitled to receive compensation and travel expenses as provided for in 37-1-132."

8. Page 5, line 10.
Following: "year."
Strike: remainder of lines 10 through 12

9. Page 5, line 13.
Following: "government"
Strike: "through its appropriate agencies or instrumentalities"

10. Page 5, line 24 through line 9, page 6.
Strike: subsection (3) in its entirety
Insert: "(3) enforce the provisions of this chapter and rules adopted pursuant to this chapter;"

11. Page 7, line 16.
Strike: "fee shall be used"
Insert: "fees must be deposited in the state special revenue fund and must be used by the board"

12. Page 7, line 18.
Following: "costs"
Insert: ", subject to 37-1-101(6)"

13. Page 10.
Following: line 16
Insert: "NEW SECTION. Section 8. Penalties--disposition of fines. (1) A person who violates any provision of this chapter or rule adopted under this chapter is guilty of a misdemeanor and is punishable by a fine not exceeding $500.

(2) A person who represents himself as an outfitter or purposely engages in outfitting without a license as required by this chapter is guilty of a misdemeanor and is punishable by a fine of not less than $200 and not more than $500. In addition, the person must be assessed the amount of all costs incurred by the board in investigating and preparing the case for trial.

(3) Fifty percent of all fines paid under this section must be deposited in the general fund of the county in which the conviction is obtained, and 50% must be deposited in the

state special revenue fund for the use of the board in enforcing this chapter.

NEW SECTION. Section 9. Enforcement. Investigations and arrests for violations of this chapter may be made by any peace officer; warden of the department of fish, wildlife, and parks; or federal agency enforcement personnel."

Renumber: subsequent sections

14. Page 11, line 5.
Following: "instruction."
Insert: "(1)"

15. Page 11.
Following: line 9
Insert: "(2) The code commissioner shall recodify section 2-15-3403 as an integral part of Title 2, chapter 15, part 18."

16. Page 11.
Following: line 11
Insert: "NEW SECTION. Section 13. Transition--effective date. (1) Members of the board of outfitters may be nominated and appointed upon passage and approval of [sections 1 through 12] but may not take office prior to the effective date in [sections 1 through 12]. The board upon appointment may adopt rules as authorized in [sections 1 through 12], but such rules may not become effective prior to the effective date in [sections 1 through 12].

(2) This section is effective on passage and approval."

7048k/L:JEA\WP:jj (rev 2-13-87)

STATEMENT OF INTENT

House Bill No. 406

A statement of intent is submitted for this bill because the board of outfitters established in section 1 is required to adopt rules under section 4 concerning the licensing of outfitters and guides. Because the licensing and enforcement authority is simply being transferred from the department of fish, wildlife, and parks to the board with no substantive change in requirements, it is intended that the board of outfitters should adopt rules substantially similar to those currently in place as adopted by the department.

7027e\c:\eleanor\wp:ee

EXHIBIT (8)
DATE 2-17-87
HB 406

Amendments to gray HB 406

1. Title, line 10.
Strike: "FINES AND FORFEITURES"
Insert: "PENALTIES"

2. Page 11, line 22.
Strike: "AND FORFEITURES"

3. Page 12, line 1.
Following: "WHO"
Insert: "represents himself as an outfitter or"

4. Page 12, line 3.
Strike: "FELONY"
Insert: "misdemeanor"
Strike: "$2,000"
Insert: "$200"

5. Page 12, line 4.
Strike: "$5,000" through "AND 10]." on line 7
Insert: "$500"

6. Page 12, line 10.
Strike: "AND FORFEITURES"

7. Page 12, line 11.
Strike: "AND" through "PROPERTY" on line 12

8. Page 12, line 17 through line 19, page 13.
Strike: sections 9 and 10 in their entirety

9. Page 13, lines 20 and 21.
Following: "INVESTIGATIONS"
Strike: ", SEIZURES,"

10. Page 13, line 23.
Strike: "AGENT DESIGNATED BY THE BOARD;"

11. Page 13, line 24.
Following: "AGENCY"
Insert: "enforcement"
Strike: "DESIGNATED BY THE BOARD"

dc/amgr406

of boats want potective legislation for business ventures. Boating Associations, as well as the U.S. Coast Guard, are pushing for a uniform title act for boats.

Ken Hoverstal, Montana Snowmobile Association, stated the Associaiton has worked with the Montana Boating Association in drafting the legislation to accomplish a uniform title act that would protect ownership of boats. Registration is not proof of ownership. Titles for snowmobiles have been required, and in many circumstances, the titles have proved to be advantageous.

There were no further proponents.

OPPONENTS

There were no opponents to HB 730.

QUESTIONS FROM THE COMMITTEE

Senator Smith stated that farm equipment require serial numbers. Keeping records of the serial numbers have controlled machinery theft. Senator Smith asked if boats have serial numbers at the present time. Since 1974, the Coast Guard has required serial numbers on boats.

Senator Smith asked about the application of permits for boats that have been previously purchased. Senator Smith asked for an explanation concerning the language in the bill that addresses the documentation, and is to accompany the application. Documents, such as invoices, bill of sales, foreign titles, official certificates of boat numbers, tax receipts, and Department of Revenue certifications, are to be listed with the applicants' taxable property. Bachini replied that the amendment was added in the House Taxation Committee to enable the individual owner to use such documentation for identification of boats that had been previously purchased. The procedure had been used for snowmobile identification, and it was satisfactory.

Representative Bachini closed by stating the legislation protects boat investments. Montana will discontinue being a "dumping grounds for stolen boats." The recovery of stolen boats will be expidited. Senator Jergeson agreed to carry the bill in the Senate, should the committee approve the legislation.

CONSIDERATION OF HOUSE BILL 406: Representative Ed Grady, House District No. 47, sponsor of the bill, stated the bill transfers the Outfitters and Guides from the Fish, Wildlife and Parks Department to the Commerce Department. The bill also changes the name from the Outfitter's Council to the Board of Outfitters, and transfers the license authority to the Outfitters. A five member board will be set up and consist of one individual from

each Fish and Game district. The Board will adopt rules for licensing, and will provide penalties for various violations within the industry. The outfitting industry brings over $40 million into the state's economy annually. The proposed legislation will enable the industry to set rules and standards, while the enforcement of the laws will remain with the Fish, Wildlife and Parks Department. Grady stated that the legislation was proposed early in the session to allow time for an exchange of ideas.

PROPONENTS

Jim Flynn, Director of the Fish, Wildlife and Parks Department gave written testimony to the committee. (Exhibit 4)

Roland Cheek, Outfitter and Guide, Columbia Falls, Secretary-treasurer for the Montana Outfitter and Guides Association, stated that he represents himself. As a member of the legislative committee for the Associaiton, he actively sought information concerning the feasibility of the legislation. Mr. Cheek stated that he spoke with the Department of Commerce and with the Attorney General's Office. The time is right for the industry to present a professional image to the state of Montana.

Smoke Elser, Montana Outfitters and Guides Association, stated the association's membersip is grown. The present enrollment is approximately 150 members. Elser stated it is time the Montana Outfitters and Guides control the industry's destiny and professionalism by regualtions and licensing procedures under the direction of a board. The outfitting industry has demonstrated its worth in Montana's economy. Now is the time for the industry to upgrade standards and professional ethics. Elser reported a survey in which 150 members were polled. The results were 116 in favor and 34 opposed. Again, a survey was taken at a recent meeting of the Outfitters and Guides held in Helena. The results were 61 in favor and 17 opposed.

Robert Vandervere, a concerned citizen lobbyist, stated support of HB 406.

Tagg Riddle, President of the Outfitters and Guides Association stood in support of HB 406.

Jeanne Klobnak, Montana Wildlife Federation, stood in support of HB 406.

OPPONENTS

Eugene Lee, Outfitter, reported that the Montana Outfitter Council sponsored meetings throughout the state to inform members of the proposed legislation: HB 406. One pertinent survey reported 58 votes against, 4 votes in favor, 7 members were undecided, and 13 were not eligible. Presenty, Colorado is the only state that has the Outfitter and Guide Industry under the Department of Commerce, and Colorado is currently seeking to be administered by the Department of Fish, Wildlife and Parks, as it once was. Idaho and Alaska have independent boards. All other western states have the industry under the Department of Fish, Wildlife and Parks.

Ralph Holeman, rancher and outfitter, offered written testimony in opposition to HB 406.

Bill Meyers, Montana Outfitter and Guides Association, self employed businessman stated opposition to the bill as it is presently written. His concern is in regards to the membership of the board. Beyers questioned the cost and time elements in reorganizing the Outfitters and Guides Industry within the Commerce Department.

There were no further opponents for HB 406.

QUESTIONS FROM THE COMMITTEE:

Senator Jacobson questiond concern voiced about membership of the proposed board. Mr. Elser stated the the Montana Outfitters and Guides Association is confident in a selection of a liaison member.

Senator Jergeson asked Representative Grady whether the Outfitters Council is currently an advisory council. Yes. Director Flynn stated that the outfitting industry is a multimillion dollar business and because of the size of the industry should be self governed.

Senator Severson asked how the proposed board would receive funding. Director Flynn stated the Outfitter Board would receive $108,000 through licensing fees collected from each Outfitter and Guide. The Board would receive $6 for each license. The total cost for a license is $100 for an Outfitter and $25 for a Guide. There are 325 Big Game Outfitters in the State of Montana. Twenty-five percent of the total Outfitters belong to the Association. Elser stated that the annual convention held in December draws approximately 150 licensed Outfitters.

Senator Severson asked Elser why the legislation is important to the industry. Elser stated the Outfitters serving on the Board must be completely familiar with the industry. Fifty

percent of the fines would be earmarked for the Board's administrative costs and fifty percent would go to the counties. The legislation brings the funds back into the state fund. Elser stated membership will be elected by peers within the five Fish and Game Districts thoughout the state.Currently, the industry is facing a crisis. In order to respond to constraints within the industry, a professional attitude is required for the entire spectrum of the industry.

Mr. Cheek stated that the Board would not put a lid on the number of outfitters within the state.

Senator Ed Smith stated as a member of the subcommittee that sets budgets for the Department of Commerce, and for the Occupational and Licensing Boards, he has concerns whether or not all the outfitters would have to be members of the Montana Outfitters and Guides Association. No, according to Mr. Cheek, membership is voluntary. Senator Smith stated according to personal experience, members that are not associated with the particular interest groups do not receive the proper considerations that the licensees and members receive. Although the proposed board would be set up differently than other boards, the situation discussed must be carefully considered. Elser replied it would be his hope that the Board would be fair at all times.

Senator William Yellowtail asked how many individuals affiliated with the association are not big game outfitters. Elser replied that ten percent would be a fair estimate. The total number of Outfitters is 604. The hunting Outfitter totals 325. The floating outfitters number approximately, 200 and they are not in favor of the legislation.

Representative Ed Grady stated that he attended a meeting held on February 1, 1987. Discussion held at that time encouraged the drafting of HB 406. The industry was encouraged at that time to take an active part in drafting the legislation. The industry is strong within Montana and will continue to grow.

Senator Smith closed the hearing on House Bill 406.

CONSIDERATIN OF HOUSE BILL 465: Representative John Cobb, House District No. 42, sponsor of the bill stated the legislation is an act to allow golden eagles to be captured for the sport of falconry. Currently, under Montana law, the capture of golden eagles is illegal. The federal government and other states allow capture with deprivation permits or by the retention of birds that have been injured. The eagles obtained by these methods maybe used for the sport of falconing. Some individuals have illegally kept eagles that have been injured during training.

DISPOSITION OF HOUSE BILL 211: Senator Smith stated the bill by Representative Devlin is an act to probibit harrassment of hunters and trappers. There are problems in the Eastern United States. Harassment could occur in Montana. Senator Jergeson moved the committee to recommend a BE CONCURRED IN AS AMENDED. The motion passed unanimously.

DISPOSITION OF HOUSE BILL 322: Senator Severson moved the committee recommend a BE CONCURRED IN on HB 322. The motion passed unanimously.

DISPOSITION OF HOUSE BILL 406: Senator Jergeson offered an amendment to sunset the Board of Outfitters. The sunset year would be 1991. Senator Bengtson stated that the date will be reviewed over the four year period. The motion passed unanimously.

Senator Jacobson made a motion to remove the five year experience clause. Senator Bengtson asked why five years experience is necessary. Smoke Elser stated the person serving on the Board should understand the workings of the outfitting industry. Jacobson stated that the five years experience clause is very unusual provision. The governor uses discretion in making appointments. The motion passed. Senator Anderson voted nay.

Senator Bishop made a motion to ask the committee to recommend a BE NOT CONCURRED IN. Senator Jacobson stated resistance to the motion. Senator Bengtson stated the outfitters have not had full consensus within the organization, but desire a high degree of professionalism. Senator Severson approved the four year sunset clause. Senator Smith stated that the Guides and Outfitters are mistaken in their concept that the board will resolve problems. The Board of Outfitters will be separate from the Fish, Wildlife, and Parks Department. Input and coordination will be lost between Outfitter and the Department in the quest to resolve problems and handle duties.

Senator Bengtson asked if any board had ever been dissolved. Senator Jacobson reported that the Board of Massage Therapy was the only board dissolved.

The motion by Senator Bishop to recommend a BE NOT CONCURRED IN failed. Senator Bishop voted yes.

Senator Bengtson made a motion that the committee recommend a BE CONCURRED IN. The motion passed with Senators Smith and Bishop voted no.

DISPOSITION OF HOUSE BILL 465: Senator Smith stated that the bill is an act to allow golden eagles to be captured for the

COMMITTEE ON Senate Fish & Game DATE March 26, 1987

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Eugene F Lee	Outfitters	HB 406		X
Spoke Elser	M.O.G.A.	406	X	
Jim Bender	Wardens Unlimited	730	X	
Roland Cheek	MOGA	406	X	
Bob VanDerVere	SELF	406	X	
Patti Curtis	Outfitter	406	X	
Ralph Holman	outfitter-Councilmember	406		X
Robert I. McNeill	MOGA	406	X	
Gary L. Drambe	MOGA	406	X	
Pete R. Tyl	MoGA	406	X	
Jane Cheek	MOGA	406	X	
Ray Keefer	MOGA	406	X	
Jack Dunn	MOGA	406	X	
Jack Ricks	Outfitter	406	X	
C. B. Ricks	Outfitter	406	X	
JERRY STROBA	OUTFITTER	406	X	
Monte Schyuer	Outfitter	406	X	
Bill Hayes	Montana Outdoor Assn	406		X
Keith Kuehn	Lake View Ranches	406	X	

(Please leave prepared statement with Secretary)

DATE March 26, 1987

COMMITTEE ON _____

VISITORS' REGISTER

NAME	Address: REPRESENTING	BILL #	Check One: Support	Oppose
[illegible]	[illegible]	406 [illegible]	✓	
John Rose	Elkhorn Outfitters		✓	
MIKE PARSONS	CROW CREEK OUTFITTERS		✓	
Bill [illegible]	[illegible]		✓	
Andie Anderson	Bighorn Outfitters	535	✓	
J.D. Lawson	Self	✓	✓	
R. Krpos	U.S. Forest Service	406		
Sid Betts	Self	406		
Doug Stewart	SELF	406		
Gayle Rose	MOCA	406	✓	
Leah [illegible]	self	406	✓	
[illegible]	MDFW	406	✓	
[illegible]	White Tail Ranch	535-406	✓	
[illegible]	Outside Inc	535 406	✓	
[illegible]	[illegible]	406	✓	
Dave [illegible]	Absaroka Outfitters Assoc	535 406	✓	
[illegible]	D.N.R. [illegible]	535/406	✓	
[illegible]	Self	406		
[illegible]	Self	535	✓	
[illegible]	Self	—		
TY THROOP	OUTFITTER	406 535	✓	
Kevin Imbrunel				
Al Wunderlich	Montana Outfitters Assn			

(Please leave prepared statement with Secretary)

DATE January 26, 1997

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Shane Curriss	Outfitters and guides assn	535	✓	
Bill Avers	Big Sky Hawking Club	530		
Ken Powell	Wings to Freedom Big Sky Hawking Club	465	✓	
Jeff McPartlin	Wings to Freedom Big Sky Hawking Club	465	✓	
Anne McPartlin	Wings to Freedom Big Sky Hawking Club	465	✓	
[illegible]	Land Owner	535	✓	
Edwin L Johnson	Outfitter	406	✓	
Keith Russell	Outfitter & Employer	535	✓	
Jim Kembel	Business Regulation Div DOC	406	Questions	
~~[illegible]~~				
Jerry Sprague	Outfiter	406	✓	
Rep Ray Brown	HD 69	406		✓
Eileen Tradis	Guest			

(Please leave prepared statement with Secretary)

MALE FISH & GAME
EXHIBIT NO. 4
DATE 3-26-87
BILL NO. HB406

HB 406
March 26, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

HB 406 will change the name of the Montana Outfitters' Council to the Board of Outfitters, and transfer that board to the Department of Commerce, along with the licensing authority for outfitters and guides. This transfer of authority from the Department of Fish, Wildlife & Parks is a move whose time has come. It is a move which has been imminent for sometime.

The Department of Fish, Wildlife & Parks and the Montana Outfitters and Guides have historically worked together to develop rules and procedures which upgraded and professionalized the outfitting industry.

This historic growth has been one of increasing activity in numbers of outfitters and their clients. In 1904, Montana licensed 14 guides and sold 65 nonresident big game licenses. In 1955, 173 outfitters worked in the state with 2,180 nonresident big game licenses sold. In 1985, 17,000 nonresident big game licenses were sold and there were 556 licensed outfitters. We have continued to see an increased number of outfitters and guides in 1986 and 1987.

This growth parallels an increased interest in outdoor recreation by the American public. This interest, coupled with Montana's premier recreational opportunities, has increased the demand for outfitter services in various capacities such as big game hunting, float fishing and white-water rafting.

Along with this growth, the needs of the industry for standards, insurance and other facets of the industry have developed. With the current structure, it is a growing responsibility for this agency to attempt to address at least some of these needs.

It then becomes questionable as to how much time and effort we, as a fish, wildlife and outdoor recreation agency, ought to be spending on the regulation of a viable and substantial occupation such as the outfitting and guide industry.

It is appropriate that an Outfitter Board administer all functions of the state's outfitting act and thus regulate themselves as do other occupations and professions in Montana. The time has come for the outfitting industry in Montana to assume its proper position, along with other professions and occupations, and to have greater control over the direction of its own destiny.

We recommend approval of this bill.

MONTANA

DEPARTMENT OF

FISH, WILDLIFE AND PARKS

MONTANA OUTFITTER COUNCIL

Re:HB406
March 26,1987

Gene Lee
Hungry Horse

Mr. Ed Smith, Chairman
Senate Fish and Game Committee
State Capital
Helena, MT 59620

Dear Mr. Smith and committee members,

Please note the enclosed information leading up to the opposition of HB 406.

Smoke Elser
Missoula

HB 406 was not drawn up or sponsored by the outfitting industry. We all read about it in our local papers when posted for hearing in the House Fish and Game committee 4 days before the hearing. As a result of the short notice, I appeared before the main committee and a sub committee unable to oppose or support this bill without input from our people.

Duane Neal
Pray

Please read copies of letters sent to Mr Orville Ellison, Chairman of the House Fish and Game committee and the notices mailed to every licensed outfitter. Also note the meeting places throughout the state so that our people could go to any meeting desired. We wanted their input and questions.

Art Weikum
Augusta

The Montana Outfitters Council moved that Spence Trogdon and I (council members) attend every meeting with the same information from the Dept. of Commerce and the Dept. of Fish and Game for their reveiw. HB 406 was read in full at every meeting with its amendments. The average meeting lasted over 4 hours with considerable discussion.

We had 127 sign in with many not signing in. Ballots were distributed with instructions that only currently licensed outfitters being able to vote. We asked for comments besides indicating whether they were for, against or undecided on HB 406. They also signed the ballots.

Ralph Holman
McLeod

The official vote was 4 to 1 to kill HB 406. There were 58 voting to kill There were 14 for, 7 undecided and 13 inelgible. The inelgibles were not currently licensed, spouses or guides. No absentee or proxy votes were accepted because it was felt the people needed to know the ramifications before making a choice.

Ray Shores
Malta

General comments were-The outfitters themselves should have drawn up and sponsored this bill if there was a need or demand to leave Fish and Game. What are the motives behind the Wildlife Federations efforts to move us away from Fish and Game. Outfitters are consistantly dealing with fish and game laws and their enforcement people. It seemed like a natural place to be under. Colorado is the only state with outfitters under the department of business and they have sought to go back under fish and game. Idaho and Alaska have independent boards and all the other western states are under Fish and Game.

Le Zeller
Miles City

Their final comments were that if the Dept of Commerce is good for our industry, the outfitters would like to come up with their own bill at the next session. No other board has 25% of the board being outside people. There are no outfitters seeking to sit on Chiropractor, Beauticians etc boards.

I have been instructed to give you this information and urge that you kill HB 406. This controversial bill is dividing the outfitters.

Sincerely,

Eugene P. Lee, Chairman

MONTANA

DEPARTMENT OF

FISH, WILDLIFE AND PARKS

MONTANA OUTFITTER COUNCIL

Gene Lee
Hungry Horse

Helena, MT 59620
February 9, 1987

Smoke Elser
Missoula

Mr. Orville Ellison, Chairman
House Fish & Game Committee
State Capitol
Helena, MT 59620

Dear Mr. Ellison:

Duane Neal
Pray

The Montana Outfitter Council, elected by the outfitters of Montana for the purpose of representing all licensed Montana outfitters, feels that it is our duty to hold meetings in our seven respective regions for the purpose of explaining the ramifications of HB 406 and obtain a consensus through the democratic process.

Art Weikum
Augusta

Meetings will be held in the regions from February 17-24 to review and discuss this proposal. Outfitters will provide direction to the council delegates to vote for or against HB 406. The council represents six hundred and four (604) Montana outfitters.

Ralph Holman
McLeod

Sincerely,

Eugene P Lee

Eugene P. Lee
Chairman

Ray Shores
Malta

c: Leo Giacometto
Council Members
Jim Flynn

Le Zeller
Miles City

MONTANA

DEPARTMENT OF

FISH, WILDLIFE AND PARKS

MONTANA OUTFITTER COUNCIL

Gene Lee
Hungry Horse

February 10, 1987

Montana Outfitters:

Smoke Elser
Missoula

House Bill 406 was introduced by Representative Ed Grady in the Fish and Game Committee to change the name of the Montana Outfitters' Council to the Board of Outfitters; to transfer the council to the Department of Commerce; and to transfer licensing authority for outfitters and guides from the Department of Fish, Wildlife and Parks to the Board of Outfitters.

Duane Neal
Pray

The first hearing was held Thursday, January 29th. At this meeting it was agreed to allow time for council delegates to meet in their respective districts and review the proposal, explaining the ramifications, other states' boards and costs.

Art Weikum
Augusta

Meetings are scheduled to give you the opportunity to vote for or against and to give your council delegate direction in the legislative process.

These are important meetings. Mr. Gene Lee, Chairman of the council will preside and present information on the proposal. We request your presence and participation at this meeting. (See enclosed schedule for meeting dates.)

Ralph Holman
McLeod

Sincerely,

Eugene P Lee

Eugene P. Lee, Chairman
Montana Outfitter Council

Ray Shores
Malta

rh
Enclosure

Le Zeller
Miles City

Region 1
Outlaw Inn
Kalispell
Wednesday, 18 Feb. 1987 - 1 p.m.

Region 2
Fish, Wildlife & Parks
3201 Spurgin Rd.
Tuesday, 17 Feb. 1987 - 1 p.m.

Region 3
Holiday Inn
Bozeman
Saturday, 21 Feb. 1987 - 1 p.m.

Region 4
Sheraton Inn
Great Falls
Friday, 20 Feb. 1987 - 1 p.m.

Region 5
Super 8 Motel
Columbus
Tuesday, 24 Feb. 1987 - 1 p.m.

Region 6
Joint Meeting with R-7
(See below)
Monday, 23 Feb. 1987 - 1 p.m.

Region 7
IGA Grocery
Montana 200 - North of Broadus
interchange
Monday, 23 Feb. 1987 - 1 p.m.

March 16, 1987

Senate Fish and Game Committee
Senator Ed Smith, Chairman
State Capitol Building
Helena, Montana 59601

Re: H.B. 406

I am in strong opposition to H.B. 406 for many reasons. To justify my reasons I have attached several exhibits to this presentation which I will refer to as I proceed.

For background information on why we have our present 7 member Outfitter Council, elected by the outfitters in the 7 Fish and Game regions, please refer to Exhibit B. an official copy from Fish and Game records.

In 1967 legislation was introduced by an existing minority outfitter association to establish an Outfitter Board patterned after an adjacent state where the association, consisting of approximately 25 per cent of the outfitters, were in full control of who served on the Outfitter Board. "Control by a minority."

Following the defeat of the above proposed legislation several outfitter organizations were formed. Following several years of arguing Board versus Council, representatives of the six outfitter organizations agreed to poll the outfitters of Montana for their preference.

Because an adjecent state had been promoted as the Utopia for outfitters, I personally made a trip to the Capitol and spent 3 days researching state records. What I found was a disgrace to the industry. The following is listed for information purposes only as to what could and did happen during the existence of a Board controlled by outfitters and not for the purpose of defaming or slandering anyone.

1- The Board,nominated by the association,. showed strong favoritism for association members and discrimination against non-association members.

2- The Board, who were supposed to represent all outfitters, displayed only association members brochures and promoted association members as the good outfitters.

3- Built an office building on one Board member's property, at Board cost, then gave title to said Board member.

4- The Board and association approved of a contest to determine which guides could account for largest elk kill. Elk were shot from helacopters and in the field by guideswho did not permit clients to fire a gun and told clients which elk they could tag. Outfitter camps were found that contained untagged and dressed out elk waiting for clients to come in over the weekend to claim and tag the elk. The winner of this contest killed 13 elk. None of these violations had been prosecuted. Much of this testimony was given by Legislators who booked with outfitters to accumilate evidence.

5- Upon receiving legislative authority to allocate operating areas for outfitters the Board gave themselves and some association members choice areas, some which were immediately sold for large sums. Upon sale the Board issued new areas to the sellers.

6- The Board refused to issue an outfitter license as ordered by the Attorney General's office.

7- The Board rebuffed the Governor's request to (1) hold a hearing on an association member and (2) that the Board operate as it was intended.

I found much more documented evidence of abuse of law, refusal to prosecute association members, discrimination and favoritism by an Outfitter Board established for the purpose of policing their own industry. An obvious situation where Outfitter Board members were

very reluctant to prosecute for fear that the next time they might be under the gun. The association did have a highly impressive code of ethics. I emphasize here that a former Chief of Law Enforcement of the referenced state, based on Board activities, made the following statements. "The Board operation was like putting a fox in the hen-house to guard the chickens." "Maybe outfitters and guides could regulate themselves if they were closely watched." Weaknesses were listed as giving autonomous power to persons who have a financial interest in the business and lack of enforcement. If a Board member reviewed a license or a complaint they have to consider what will happen if the next complaint is on one of them. He further stated "regulating the industry is essential.

Upon receiving the results of the letter poll, defined on Exhibit B, which clearly reflect the preference of outfitters, outfitter representatives working with officials of the Department of Fish and Game formulated legislation establishing the Montana Outfitter Council as an independent advisory arm to the Department. The Department were required to appoint a laisson officer to meet with the Council. Later legislation proposed by the Department allocated the Council to the Department and provided for a Department Supervisor of Outfitting. Our current system.

The 1967 attempt to establish an Outfitter Board and its defeat, contrary to a gentlemens agreement to abide by a majority decision, started a 20-year near continious effort by some to establish a Board as you now see in H.B. 406. Some say that the Council are ineffective, that a Board of outfitters should be all powerful. The majority of outfitters, however, like the assurance that the watchful eye of the Department precludes the possibility of favoritism or discriminatory acts by Council members.

I have served on the Council, by re-election, since inception in 1972, several years as Chairman. For many years we have asked the Montana Outfitters Association for their recommendations on how outfitters want the Council to operate. How much authority do outfitters want the Council to have. How can we better serve the industry, etc.. Although we have received an occasional individual recommendation, we have received nothing from the Association based on majority recommendations. The Department and Council members both agree that the Council should have more authority, however, we need input to avoid being called dictatorial.

Following Council recommendations the Director, a professional administrator, with legal advice at his side, acts with discretion to investigate, prosecute or dismiss. This assures a decision based on legal precedent. It further assures that a Council member will not attempt unreasonable acts against a competitor and will recommend reasonable regulations that they themselves must abide by.

The Council are and have been a valuable asset to Fish and Game law enforcement because of the close correlation between Fish and Game laws that provide protection for the wildlife resource of Montana (we would have no resource without those laws) and laws that regulate the outfitter during the utelization of your resource. In my twenty-five plus years of outfitting and guiding and serving on the Council, I have learned well that there are three categories of outfitters. The majority are self disciplined, prudent operators with ethics that equal or exceed the law, most cooperate with law enforcement personnel who rely on those outfitters to keep them informed on illegal activities in the area. We also have some who operate close to the ragged edge of the law and most of the time stay within the law due to the fact that a large number of enforcement personnel are in the field. Even knowing this some cannot resist temptation and get themselves in trouble. A third category have no intention of operating legally and are out for the sole purpose of exploiting your resource for their personal gain. Some were licensed outfitters, Jerry Marjerrison, Tom Brogan, and others who lost their outfitter license as a result and some operate as "just a group of friends under the guise of sportsmen, not as licensed outfitters. Under current law these and other violators are now subject to prosecution, provided

sufficient law enforcement exists. Many of the above will be quick to take advantage of the severely reduced enforcement when Game Wardens are taken out of the picture and this will happen unless the proposed Board can finance duplication of law enforcement now provided by our seventy Game Wardens.

During the past fifteen (15) plus years of working together (Fish and Game law enforcement and Council) many laws and regulations have been implemented, some had to be revised to close loopholes. Cooperation and correlation must continue to assure that effective and impartial regulation is provided. Rather than supporting a move of outfitters and Council Mr. Flynn should be taking bows and complimenting the Fish and Game Law Enforcement Division for the efficient and effective law enforcement they are providing.

We have a unique outfitter law that allocates the Council to the Department of Fish, Wildlife and Parks because we have a unique industry. Check the structure sheet of the Department of Commerce. (Exhibit C) We will be number 73, all of which share legal, office, investigation by four (4) investigators, etc.. Do you see any of the listed Boards that utelize, and that could exploit your wildlife resource in the conduct of business? NO! These are businesses that deal with the public, dependent on public reputation and are under the watchful eye of the local public. They generally purchase and sell a commercial product or sell services that have no connection with your resource. Consider the difference between an outfitter and an optometrist, an electrician or beautician, Licensing of outfitters and guides by the Department of Fish, Wildlife and Parks for the purpose of utelizing the wildlife resources of Montana is as essential as licensing you and I for the privilege to hunt or fish. There is no difference between licensing me to harvest an elk and licensing me to guide someone else to harvest an elk. The two go hand in hand.

We are not a commercial industry in the normal sense of plumbers, nurses and others. We deal with sportsmen from Coast to Coast and potential violators of our Fish and Game laws who are also entitled to fair and impartial treatment. Department personnel have worked with the outfitters Council to substantially reduce fraud, deception, false advertising and other illegal outfitting for 15 years. We have an excellent and effective relationship. Help us keep it.

Compare this to the structure sheet of the Department of Fish, Wildlife and Parks where we have direct access to the Director, (Exhibit D) the Supervisor of Outfitting and legal personnel, where outfitters records are scrutinized for leads that may lead to finding violations. Where all complaints can be immediately and carefully checked for violation of Fish and Game and Outfitter law violations without duplication of the efforts of two Departments, one against the other, each to act at their convenience. Two Departments both to issue license and regulations necessary to the conduct of outfitting and guiding, a duplication of records, paper work and personnel, more enforcement personnel if the Board does its job, a duplication in total, and who pays? The outfitter and guide.

H.B. 406 new section 9, now states that investigation and arrests may be made by various law enforcement personnel, generally Fish and Game. The question is who pays? Sportsmen license fees? Free gratus? The second point is will they enforce a law that belongs to another Department or will they be stepping on another's toes? You may also perform a citizen's arrest; will you? Unless you are on firm legal ground or have legal authority its certainly not advisable as you could become embroiled in costly and time consuming litigation.

Functions of the Council and our relation to the Department were thoroughly investigated by the Legislative Audit Review Committee and the office of Legislative Auditor in 1983. Following this review the Council were highly complimented by both the Auditor's office and the Review Committee for our cooperation, efforts and high qualifications. Continuation of our programs were highly recommended even by the President of Montana Outfitters and Guides Association.

Council members served without reimbursement from 1972 to 1984, Council members have developed fifteen years of experience, some by trial and error, to upgrade a highly respected and viable industry that generates millions of new dollars into the economy of Montana. To insure that those who attempt to exploit the wildlife resource of Montana are prosecuted the industry must remain under regulation of our closely related Department of Fish, Wildlife and Parks. A check of Fish, Wildlife and Parks Department and/or Forest Service records will reflect why some want a move and the reduced enforcement it will bring.

Some outfitters want a Board that will limit, by moritorium, the number of outfitters allowed to do business, some want quaranteed clients, some want tests so stringent that no one can pass. Some would ignore the free enterprise concept.

There has been some critisizm of Supervisor of Outfitting, Bill Maloit, for being too strict on law enforcement, not showing favoritism for outfitters, etc.. I have always found Mr. Maloit to be firm, fair and impartially committed to his duty as a law enforcement agent for which he should be commended. I for one would sleep very secure with the knowledge that the outfitter law was administrated by a Board consisting of seven Bill Maloits whose swarn duty was to protect and perpetuate the wildlife resource of Montana.

It is my understanding that H.B. 406 was introduced on the basis of being an exchange for receiving a set-aside of 8,500 B-10 non-resident licenses via H.B. 535 and it was implied that if outfitters did not go along with H.B. 406 they probably would not qet the set-aside. I testified in opposition to H.B. 406 representing only myself because 406 came as a suprise and I did not have time to contact outfitters in my Council region for input. There was little, if any, other opposition for this reason. There was some support from outfitters apparently willing to make the trade.

As soon as possible Council members held meetings to inform outfitters of another Board attempt. Blizzard conditions existed and only limited members could make the hurriedly called meetings as Chairman Gene Lee will report. However ironic, the fact exists that the majority of outfitters are disgusted with the continueing attempts to establish a Board as was exhibited at the meeting held March 24th by Montana Outfitters and Guides Association following over a month of preliminory selling, good weather, and held in conjunction with testimony on H.B. 535, attended by less than 15 per cent of total outfitters. Proof that outfitters are thoroughly disgusted.

Much of the support for H.B. 406 aquired by M.O.G.A.'s Vice-President was gained as a result of ridiculous statements made in an unsigned letter mailed from Butte, (see Exhibit E) and his statement that the Director of the Department of Fish, Wildlife and Parks had emphatically stated that the Department will continue to enforce the outfitter law if outfitters are moved to the Department of Commerce. (see exhibit F item 12) If this is in fact true I propose that H.B. 406 page 12 line 13 be ammended by deleting the word may and inserting the word shall. I do, however, question the validity of new section 9 based on Montana Statute 87-1-506 which stipulates the duty and authority of Montana Game Wardens and based on Montana Statute 87-1-401 which stipulates the Power and duty of the Director. If my interpretation of these Statutes is correct there is no legal authority for new section 9. In fact these Statutes preclude this act. I have asked some Department law enforcement personnel if they would enforce and received a negative reply.

H.B. 406 was formulated without consideration for problems caused for our 600 outfitters, it has been ammended to death, in futile attempt to improve it. H.B. 406 is not an outfitter proposed bill, H.B. 406 is splitting the outfitting industry and regressing our industry twenty years. I first propose and ask that H.B. 406 be killed. If it cannot be killed I propose ammendments that will make enforcement by the Department of Fish, Wildlife and Parks mandatory at their cost.

I further propose that H.B. 406 be ammended to provide for seven outfitters on the Board to coincide with the seven Fish and Game Law Enforcement Regions as follows:
page 1 line 21 delete 7, insert 9
page 2 line 21 delete 5, insert 7
page 2 line 25 delete 5, insert 7
page 12 line 13 delete may, insert shall
check validity of new section 9

These ammendments will make the bill a little more palatable, however, I repeat; please kill H.B. 406 and let outfitters first decide by majority, then write their own legislation. Claims that an outfitter Utopia will result have been floating around like snowflakes. There has been no documentation of where 406 will take us because no one will document. Don't let us be pigion-holed by those whose only interest is to reduce enforcement. Thank you for your consideration.

FISH AND GAME PROPOSAL vs. BOARD PROPOSAL "Exhibit B"

Exh. B.

At a joint meeting of members of the M.O. & D. R. A., the Wilderness Guides Assn., the Bitterroot Outfitters Assn., and approximately 30 independent Outfitters held in Helena on February 14, 1970, it was agreed that a copy of the M.O. & D.R.A., proposal (a revision of S.B264), and a copy of the Fish and Game proposal were to be mailed to all Montana Outfitters requesting that each outfitter write a letter stating his preference and mail same to Helena to be opened at a future committee meeting. This was done.

In answer to the above request, the Committee received, opened and read, one hundred and twenty letters with results as follows.

108 were opposed to creation of an outfitters board and in favor of leaving outfitters under the jurisdiction of the Fish and Game Department. (Some letters contained two signatures.)

6 were in favor of an outfitters board and opposed to leaving outfitters with the Fish and Game Department.

4 were in favor of an outfitters board providing several changes were made in the Board proposal.

2 took no stand.

A total of 120 letters were written.

For your information, the names of outfitters who wrote the above letters are segregated below. All of the original letters are still on file and are available for checking.

OPPOSED TO AN OUTFITTERS BOARD:

Charles Alkire, Livingston
Laurence E. Sullivan, Salmon, Id.
Frank S. Vanderhule, Anaconda
Kenneth H. Gleason, Choteau
Frank Standish, Gardiner
Chuck Bornhauser, Melrose
Duane B. Hooper, Big Timber
Harry Lederer, Fairfield
Marvin Carlson, St. Regis
Lyman R. Tait, Teigen
Bob R. Teague, White Sulphur
Paul Harbaugh, Jordan
Larry Todd, Emigrant
Dick McGuire, Ennis
James Todd, Emigrant
George H. Athas, Jardine
Willis L. Kent, Great Falls
Roger Engle, Big Timber
Max Chase, Emigrant
Tony Gulli, Alberton
George R. Shawver, Brussett
Roger Lonepre, Alberton
Mortimer Bacon, Alberton
Thomas J. Fletcher, Greenough
Theo Thompson, Big Timber
Keith Graybeal, Hall,
Granville Skillman, Livingston
Don Todd, Reed Point
Walter Martinz, Big Timber
Jerry Olson, Wilsall
Reuben Molstad, Ekalaka
George P. Johnke, Augusta
Norris G. Bacon, Martin City
Dean O'Leary, Wise River
Don Yerian, Hamilton
Eugene Hungerford, Whitehall
Alvin Pierce, Emigrant

Charles Moseman, Shawmut
Milton Hopkins, Bigfork
C. D. "Spike" Jensen, Columbus
Dan B. Wood, McLeod
Wm. A. Tyson, Gardiner
Wm. Sommers, Cooke City
George O. Smith, Melrose
Heller & Bennett, Stevensville
Dwane Forder, Highwood
Charles Abbott, Miles City
Dan I. Ekstrom, Clinton
Martin J. Parks, Gardiner
A. O. Askin, Livingston
Riley Wilson, Harrison
George E. Radel, Livingston
Anton E. Schoonen, Whitehall
Hugh E. Nugent, Livingston
Lyle P. O'Conner, Jordan
Tom Flanagan, Absarokee
Gill Aller, McLeod
S. C. Spillum, Circle
Paul Christensen, Livingston
Gerald L. Kezar, Havre
Monta V. Neely, Cameron
Arnold H. George, Jardine
Ralph D. Hughes, Jardine
Ed Skillman, Livingston
M. E. Lloyd, Otter
Rich Christy, Bonner
R. M. Holman, Big Timber
Gerry Halter, Big Sandy
Wm. (Bud) Smith, Roman
Ken Graber, Bozeman
Ray L. Reed, Ennis
Ralph D. Wyman, ~~Bozeman~~ Billings
Albert Newman, Ingomar
Leah R. Cole, Jordan

Vernon Johnson, Jardine
Norman Strung, Bozeman
Leslie J. Craft, Jardine
Duane Neal, Pray
"Spike" Van Cleve, Big Timber
Keith Rush, Butte
Vern McMannis, Dillon
George Figgens, Laurel
Gary Kennedy, Belgrade
Burr L. Lively, Melrose
Art Hayes Jr., Birney
Bill Dygert, Billings
Jack McGowan, Ennis
Eugene Sullivan, Big Fork
Bill Othersall, Missoula
Bill Johnston, Missoula
Lelano H. Page, Sr., Phillipsberg
Fred Norris, Haugan
George Woolsey, Big Arm
Ruth Woolsey, Big Arm
Carl Schauss, Big Arm
Lonnie Goss, Conner
Martin Barnes, Jordan
Lester C. Baldwin, Gal. Gateway
Larry D. Maxwell, Darby
Fred Rwuing, Darby
Lloyd Wortman, Ennis
William Darlington, Ovando
T. R. Hess, Phillipsburg
George Carter, Phillipsburg
Henry A. Mercer, Monida
Kenneth Coulter, Brusett
James H. Stands, Pray
Wayne Fuller, Livingston
N. L. McDonough, Wolf Creek
Tom C. Villenenue, Anaconda
LeRoy Lucke, Big Arm

IN FAVOR OF OUTFITTERS BOARD:

Peter T. Combs, Ennis
Glen Childers, Brussett
John Buker, Victor
Ray Higgens, Darby
Erv Malmarich, Hamilton
W. A. Cunningham, Billings

IN FAVOR OF OUTFITTERS BOARD PROVIDING CHANGES WERE MADE IN PROPOSAL:

Rich Higgens, Darby
Fred Pack, Gallatin Gateway
Sam Smeding, Gal. Gateway
Herb Stevens, Augusta

NO STAND:

Martin R. Capps, Salmon, Idaho
Bob Fish, Othello, Washington

1 – 72 existing Bureaus – Divisions – Boards etc.

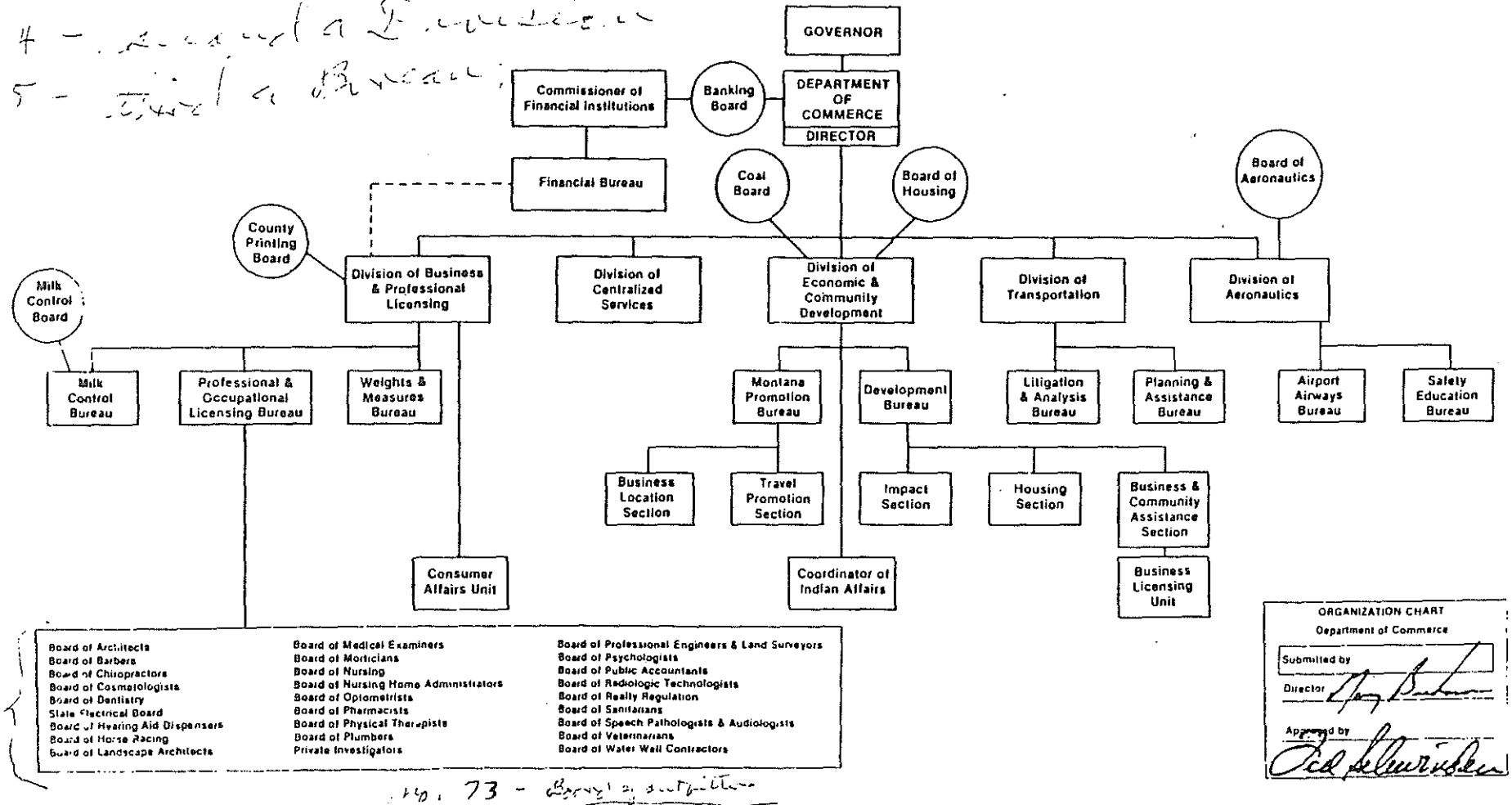
2 – including 32 ~~of~~ Boards

3 – entitled to # 73 mentioned in Section

4 – Board a Division

5 – Total 41 Boards

EXH. C



-C1-

No. 73 – Board's entitled

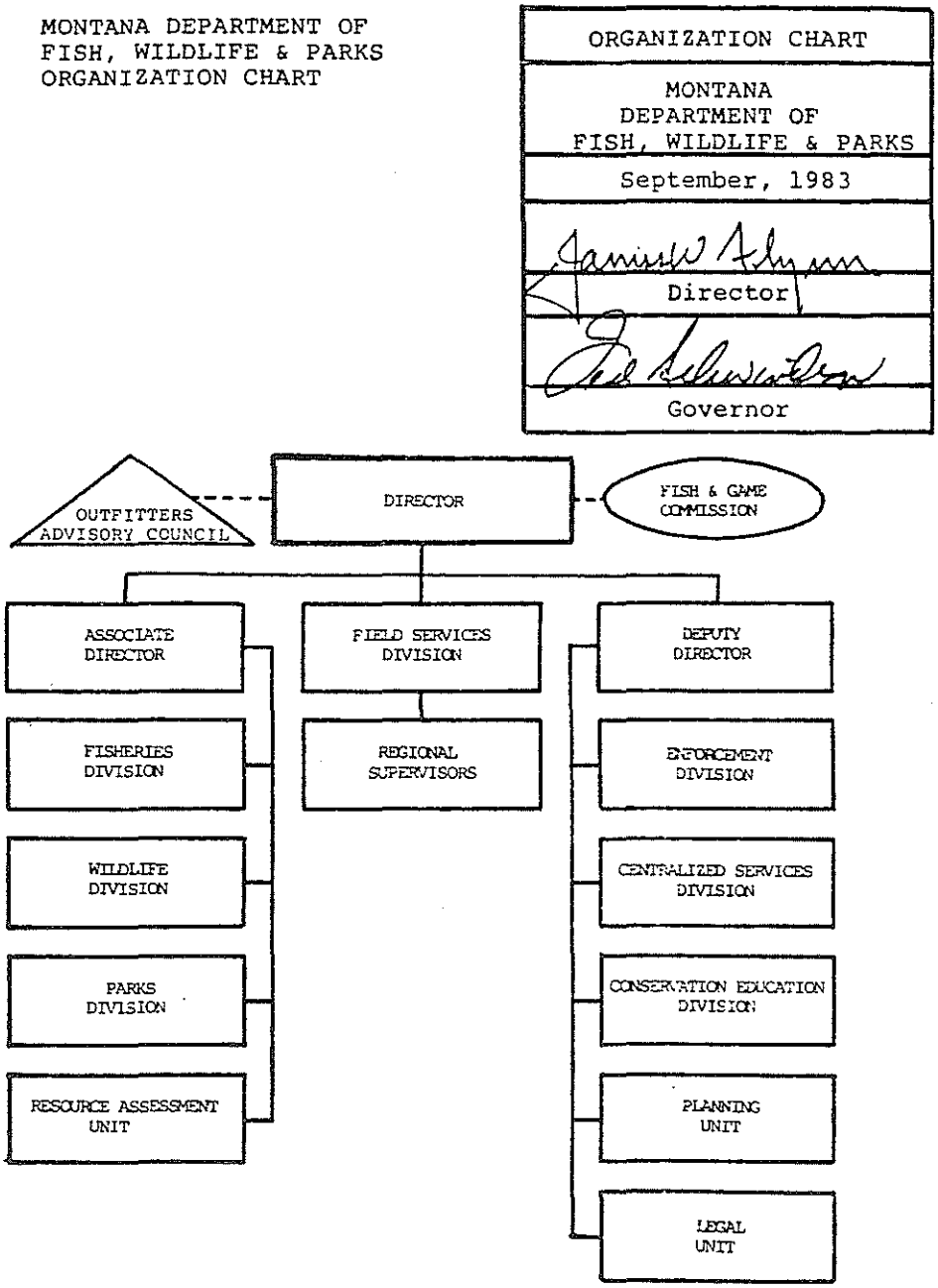
All of the above

~~all~~ shall Legal, office, investigation by 4 investigators.

Elsa
Exh. D

12.1.101 FISH, WILDLIFE & PARKS

MONTANA DEPARTMENT OF
FISH, WILDLIFE & PARKS
ORGANIZATION CHART



EXH. 5

TO: ALL MONTANA OUTFITTERS

RE: MONTANA LEGISLATIVE COUNCIL HOUSE BILL 406 - Sponsored by Rep. Ed Grady

THIS LEGISLATION PROPOSES CHANGING THE "OUTFITTER COUNCIL", WHICH IS NOW AN ADVISORY COUNCIL TO THE MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS, TO A SELF GOVERNING BOARD UNDER THE MONTANA DEPARTMENT OF COMMERCE.

AS A GROUP OF CONCERNED OUTFITTERS, WE FEEL YOU SHOULD BE INFORMED ON THIS IMPORTANT ISSUE. THE FUTURE OF THE OUTFITTING INDUSTRY IN MONTANA MAY REST ON THE OUTCOME OF THIS LEGISLATION.

FACTS AT PRESENT:

UNDER THIS LEGISLATION, THE BOARD OF OUTFITTERS WOULD BE MADE UP OF SEVEN (7) MEMBERS, ONE MEMBER FROM THE PUBLIC, ONE MEMBER FROM THE DEPT. OF FISH, WILDLIFE AND PARKS AND FIVE (5) MEMBERS FROM THE OUTFITTING INDUSTRY. ALL BOARD MEMBERS WOULD BE APPOINTED BY THE GOVERNOR. OUTFITTERS WOULD ELECT THEIR NOMINATIONS IN EACH OF THE FIVE (5) FISH AND GAME COMMISSION DISTRICTS. TWO OUTFITTERS WOULD BE ELECTED FROM EACH DISTRICT AND THE GOVERNOR WOULD SELECT ONE OF THESE NOMINATIONS FROM EACH DISTRICT FOR THE APPOINTMENT. THEY WOULD BE APPOINTED ON A THREE (3) YEAR STAGGERED TERM. OUTFITTER BOARD MEMBERS MUST BE A LICENSED OUTFITTER WITH A MINIMUM OF FIVE (5) YEARS OF EXPERIENCE AND ACTIVELY ENGAGED IN AN OUTFITTING BUSINESS.

THE BOARD WOULD OPERATE ON A BUDGET SUPPORTED BY LICENSE FEES AND FINES COLLECTED. COST OF THE BOARD OPERATION APPEARS TO BE COMENSURATE WITH OTHER OPERATING OUTFITTER BOARDS. THE BOARD WILL HAVE RULE MAKING AUTHORITY AND ENFORCEMENT POWERS OF THE OUTFITTER LAW AND REGULATIONS. THE BOARD LIABILITY WOULD BE RETAINED BY THE STATE OF MONTANA.

UNDER THIS LEGISLATION. THERE WOULD BE VERY STIFF FINES FOR PERSONS FOUND GUILTY OF OUTFITTING WITHOUT A LICENSE. (ROGUE OUTFITTERS)

UNDER THIS LEGISLATION, THE BOARD WOULD HAVE FULL AUTHORITY TO ESTABLISH OUTFITTER STANDARDS AND PROFESSIONAL GUIDE STANDARDS, ADOPT RULES AND REGULATIONS COMENSURATE WITH THE LAW AND ESTABLISH AN ENFORCEMENT PROGRAM.

BEING UNDER THE UMBRELLA OF THE MONTANA DEPARTMENT OF COMMERCE, THE BOARD WOULD HAVE OFFICE SPACE, SECRETARIAL SERVICES, ATTORNEY SERVICES, STAFF INVESTIGATORS, COMPUTER TIME, OFFICE EQUIPMENT, ETC. ON A COOPERATIVE BASIS WITH THIRTY TWO (32) OTHER LICENSE BOARDS UNDER THE SAME UMBRELLA. THE DEPARTMENT OF COMMERCE WOULD HAVE NO POWER OVER THE BOARD OTHER THAN IN AN ADVISORY CAPACITY AND WOULD SUPPORT THE ADMINISTRATIVE FUNCTIONS OF THE BOARD.

REASONS FOR THIS LEGISLATION:

1. To dispell the perception that the Fish and Game funds are used on the Outfitter Industry.
2. The Outfitting Industry is a large industry contributing many millions of dollars in Montana's economy and should be in control of it's own destiny.
3. To dispell the feeling of the sportsmen of Montana that the Outfitting Industry is always in bed with the Dept. of Fish, Wildlife and Parks.
4. That Outfitting is the only business in Montana requiring a license that is not governed by a license Board.
5. To strengthen the enforcement capabilities and stiffen the penalties for illegal outfitting.

SUPPORTING THIS LEGISLATION:

1. Montana Dept. of Fish, Wildlife and Parks Director, Jim Flynn
2. Montana Outfitters and Guides Association Board of Directors (Unanimous)
3. Montana Department of Commerce
4. Fishing and Floating Outfitters of Montana Association
5. Montana Wildlife Federation

TIME IS OF THE ESSENCE

IT'S YOUR RESPONSIBILITY WITH THE DESTINY OF YOUR BUSINESS IN MIND TO ACT NOW!! GET A COPY OF HB-406
MOST COUNTY COURTHOUSES HAVE COPIES OR YOU CAN GET ONE THROUGH YOUR LEGISLATOR
MAKE A DECISION ..... INFORM YOUR LEGISLATORS ..... MAIL BACK ENCLOSED RETURN CARD TODAY!!

IN ADDITION, YOU MIGHT WANT TO CONTACT YOUR MOGA OR COUNCIL REPRESENTATIVE TO VOICE YOUR OPINION OR GET MORE FACTS.

Information from Vice President Ron Curtiss to accompany newsletter #3 from Tag Rittel

February 28, 1987

Exh. F

OUTFITTER TRANSFER BILL

During the early days of the 1987 legislative session, those of us who were working in the legislature found out that there was a bill being introduced that would transfer the outfitter council from MDFWP to the Department of Commerce, and change the outfitter advisory council to a board of outfitters. We were asked if MOGA would support such a move. Before taking a stand on the issue, we went out to find out everything we could, with the limited amount of time we had, about how the transfer would effect the outfitting industry. We went to the Department of Commerce, MDFWP, the Attorney General's office, we contacted the Idaho Outfitters Board, Colorado outfitters and the Alaska Guide Board. Once we looked at the information we received, it was obvious to us that the transfer was not only good, but absolutely essential to the future well being of the outfitting industry. Here are a few of the FACTS we found.

1. There are 93 licensed professions in our state and 92 of them have their own board--only outfitters do not.
2. Licensed professions have 32 self-governing boards and all are in the Dept. of Commerce.
3. Except outfitters, every licensed profession is regulated by a board made up of members from it's own profession.
4. Outfitters and guides licenses bring in $108,000.00 a year.
5. The board would support it's self from license fees.
6. The Dept. of Commerce would charge the outfitter board $43,000 a year for all administrative costs (secretarys, legal staff, investigators, computer time, meetings, mailings, etc.).
7. MDFWP now charges outfitters $48,000 for administrative costs (mostly supervisor of outfitting salary).
8. The board could provide it's own enforcement of illegal outfitting.
9. The board COULD spend up to $60,000 a year on enforcement (without increasing license fees).
10. The board could re-write rules setting up requirements to become an outfitter, in fact all rules pertaining to outfitters.
11. There would not be a supervisor of outfitting under the board system. The board, in effect, would be the supervisor of outfitting.
12. MDFWP could continue (in factthe director says they will continue) to enforce the outfitting without a license law.
13. The board could run undercover operations to help stop illegal outfitters.

After considering the facts, we knew that we had to support the move to the Dept. of Commerce, and your MOGA Board of Directors unanimously concurred. Here are some things that we found the board could do for the outfitting industry.

1. By picking the five outfitter members on the board, we would be assured that decisions about our industry would be made by outfitters.
2. The board could make rules that would better control the numbers of outfitters.
3. The board could more effectively enforce illegal outfitting laws.
4. The board could upgrade the professionalism of the outfitting industry.

We do not feel the law, as it is now written, is perfect. We had input and made some changes that needed to be made in order to make the new law workable. It is our feeling that the new law, as it is written, is a good law and will greatly benefit our industry. However, it is our intention to work under the new law until the next legislative session then, using the experience gained in the interim, go back to the legislature and make any necessary changes in that law.

THIEVES IN THE WOODS

Hundreds of illegal outfitters are ripping off sportsmen and giving legitimate operators a black eye. It's high time to put the rogues out of business.

By Gary Turbak

There are thieves in the woods, just as Tom Price of Montgomery, Texas, found out.

Tom and five friends signed on with a New Mexico outfitter whose literature offered "a quality hunt" and the "extra effort it takes to make your hunt a success." Over the phone, the outfitter promised a five-day drop-camp mule deer hunt on 15,000 acres of private land. Services were to include packing in and out, cooking and sleeping tents and cooking equipment. Each hunter paid $225.

Here's what the hunters found: Ranch accommodations advertised as being "on par with the finest" consisted of a trailer house and small barn. The outfitter had two horses available for the six hunters and their gear. The drop camp was about 1½ miles off the road, and the hunters packed most of the gear in on their backs. The one available tent leaked, and cooking gear consisted of a single Coleman stove on a camp stool and a few pots and pans. No firewood had been cut. The outfitter beat a hasty retreat from the camp after promising to check on the men in three days and to pack them out in five.

The Texans decided to make the best of a bad situation, but things soon got worse. By the end of the first day they realized there was little game in the area. On the second day they met a local hunter who told them they were on national forest land, not private property. Heavy snows hit on the third day. The hunters waited as long as they dared and then packed the gear out on their backs rather than risk getting caught in a mountain blizzard. The six sportsmen had been fleeced.

They aren't alone. Illegal, unethical and unscrupulous outfitters operate throughout the prime hunting areas of the West. They're as much a threat to legitimate outfitters as to sportsmen.

"If we don't get a handle on them pretty soon," says Marion Scott,

continued on page 99

earlier you'd have seen us while we were still on fire!"

I thought for sure he was going to haul us off to jail, but instead he just smiled, took one last look at the smouldering debris, and started to saunter back to his car. "Well, if you fellas turn up any information about the explosion," he said over his shoulder, "I'd appreciate it if you'd let me know. I don't reckon there'll be another one, do you?"

"Nope." Retch and I said in unison.

Then the deputy stopped and kicked gingerly at something on the ground in front of him. It was Retch's muskrat hat! The deputy turned and gave us a sympathetic look. "Too bad about your dog," he said.

The cannon pretty well quelled our enthusiasm for building our own muzzleloaders from scratch. Not only had it made a big impression on us, it had made numerous small impressions. Years later, while I was undergoing a physical examination, the doctor commented on some bumps under my skin.

"Pay them no mind, doc," I told him. "They're just pieces of sewer pipe."

At this juncture of my recitation, Milt Slapshot jumped up and headed for the door.

"Thanks," he said. "You've answered my question."

"Gee," I said. "I've even forgotton what the question was. But if you need any help putting your muzzleloader kit together, Milt, just give me a call."

He hasn't called. I suppose he's been tied up at the office a lot lately.

THIEVES IN THE WOODS

continued from page 51

outfitter and president of the Wyoming Outfitters Association, "the bad apples are going to destroy the outfitting industry."

Authorities in Montana, Colorado, New Mexico, Idaho and most other Western states agree that a problem exists. In California, Washington and Oregon the illegal activity is often associated with river floating. In the mountain states, it's big-game hunting in the fall and fishing trips in the summer. Some Canadian provinces also report violations.

But officials in all areas are quick to echo the words of Bill Maloit of Montana's Department of Fish, Wildlife and Parks: "There are a lot of good outfitters in the West. All sportsmen have to do is find them. Unfortunately, the honest outfitter's reputation is hurt by the activities of a relatively few crooks."

Time was when phony outfitters were about as sophisticated as a punch in the nose. Several years ago, an unlicensed Montana outfitter journeyed to Washington state and booked 12 hunters on a dream elk hunt for $1,200 each. The dream turned to a nightmare, however, when October rolled around and neither the outfitter nor the money could be found.

Today, a rogue's tactics are more refined. He steals from state and federal taxpayers by not buying licenses and permits. He steals from honest operators by ruining the industry's reputation and by luring away clients. And he steals from the general public by abusing natural resources. But mostly he steals from the hunters, fishermen, river floaters, photographers and wilderness enthusiasts who hire him.

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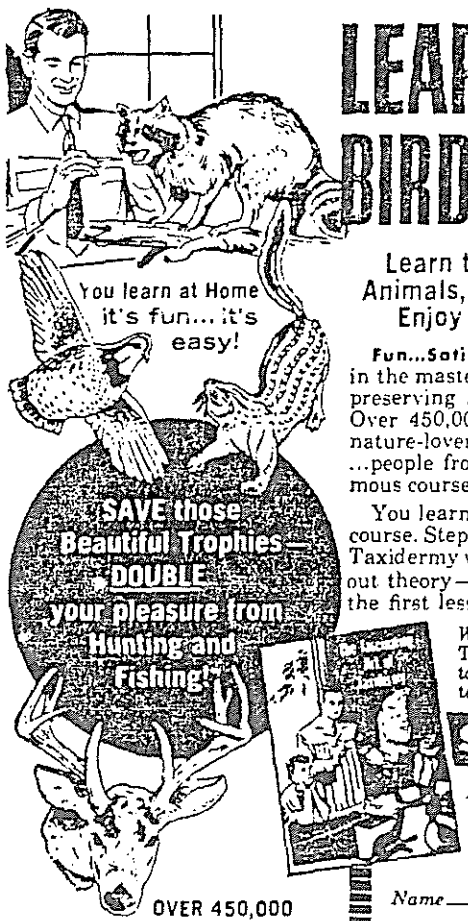

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OVER 450,000 STUDENTS HAVE TAKEN THIS FAMOUS COURSE!

Here are a few of the victims:

• Some sheep hunters in Idaho spent a week in a drop camp in an area closed to sheep hunting. The place had no sheep anyway.

• At least one group paid for a wilderness survival experience in Montana and were simply dumped in a remote area and told to walk out.

• A group of Colorado elk hunters paid $750 each for a guided hunt. The guides wouldn't get out of bed. The cook wouldn't cook. Elk meat spoiled. One hunter broke his ankle and was not taken to medical help for two days.

"The biggest complaint I hear," says Ed Amonette, president of the New Mexico Council of Outfitters and Guides, "is that a rogue's services are mediocre or worse. Supposedly guided hunts may not be guided at all. Or hunters are put in a drop camp where there hasn't been any game for years."

Lewis Janes and four other Florida hunters recently found themselves in such a drop camp.

"The outfitter didn't have enough horses," Janes told me, "so we had to walk in, but that wasn't much of a problem since this guy's idea of a drop camp was one about a mile off the road. Before he left us, he pointed to a ridge a couple of miles away and told us we might have to hunt into the next drainage to find elk."

The group of experienced hunters found no elk sign and soon began to wonder why they'd seen no other hunters. On the third day they happened upon an employee of the state fish and game department who told them that elk almost never inhabit the drainage they were hunting. The angry hunters packed their gear out, drove 60 miles to an area suggested by the warden, and found elk on their own.

In Montana, law-enforcement personnel still chuckle about the famous peanut butter case. Two hunters from Tennessee hired an outfitter partly because his promised backcountry menu included such culinary delights as prime rib and lemon pie. What they got was peanut butter sandwiches—morning, noon and night. To add insult to hunger, the guides one day gobbled up the peanut butter sandwiches that were to be the hunters' lunch.

Statistics are scarce. In fact, the only available numbers come from the U.S. Forest Service's Region 1, which includes Montana, North Dakota, and parts of Idaho, Washington and South Dakota. Forest Service officials believe 256 illegal outfitters plied their trade in Region 1 in 1979, while 363 legitimate operators held licenses. The outlaws catered to an estimated 1,788 clients and took in more than $700,000.

"Illegal outfitting may not seem like much," says Bill Longacre, chief special agent in Region 1, "until you realize that these guys are doing nearly a three-quarter million dollar business in two months in just a couple of states. If that was a bank robbery, it would be front page news."

Who are the illegal outfitters? They may be skillful hunters who won't or can't buy an outfitters license because they're cost-cutters and second-rate operators.

"In my experience," says Ed Amonette, "the rogue outfitter is not well equipped and looks upon his clients as suckers."

In many states outfitters are screened and licensed by the state. Their equipment and stock are inspected, and their guides must meet certain standards. To hunt on national forest land, the outfitter must have a U.S. Forest Service permit and must pay guest fees and camping fees. He'll likely be assigned to a camp area. Also, the legal outfitter must carry insurance to protect himself, his clients and the government.

Rogue outfitters abide by none of these regulations, and they generally have little regard for ethics. Some operate 40 to 50 percent cheaper than honest outfitters.

Rogues come in all shapes and sizes. They might operate out of a bar and attract clients by word of mouth. Some advertise and publish slick, enticing brochures.

Other illegal and unethical activities sometimes become part of rogue outfitting. Bill Maloit says rogues have been known to put chemicals in mountain streams to kill fish for camp food. Bill Longacre says illegal outfitters have helped clients poach grizzlies, mountain lions and other animals; they've left elk and deer to rot in the brush; they've used salt to attract game and chain saws to cut firewood in wilderness areas; and they've left game untagged, camps uncleaned and clients unsatisfied.

If the offenses are so blatant, why aren't illegal outfitters arrested and put out of business? Some are, but most are not. Officials say it's hard to apprehend and prosecute them.

For starters, a rogue can make himself hard to find. He might move camp frequently. But many rogues include their clients into a conspiracy by having them pose as longtime friends. If hunters swear that they're all old Army buddies, for example, that makes the rogue just a good friend, not a professional outfitter who must have licenses, permits and insurance.

Last fall Montana officials found what they suspected to be a rogue's hunting camp. A warden, posing as a local hunter, talked to several clients separately. All told the same story almost verbatim: "Oh, we're just old friends. Jim (the outfitter) used to live in our neighborhood in Florida and he invited us up here to hunt elk. He'll be coming down to Florida to hunt quail with us next fall. Pay him? Oh, no. We all chip in a little for the food, but that's all."

When clients and rogue outfitters are in cahoots, the hunters might pay with a new trailer house, a horse, or by selling the rogue a pickup truck for $5. There are no cancelled checks, no receipts, no proof.

"We can usually tell if an outfitter is a professional by looking at his equipment," says Bill Maloit, "but it can be virtually impossible to prove unless we get a complaint."

And some of the complaints are whoppers! One Pennsylvania sportsman chronicled his 1979 elk hunt with 24 hand-written pages of scathing attack on a licensed but unethical outfitter and his guides. The hunter told of hunting days ending at 10 a.m., of having to chop his own wood, of guides shooting elk from under a hunter's sights, of guides sleeping or drinking the day away, of untagged elk (shot by guides, not hunters), of being dumped alone in strange country in early morning blackness and of falling 50 feet down a steep embankment. "Sooner or later," he concluded, "someone will get hurt or lost because of these people." The hunt cost the man $1,100.

→

AVOIDING ROGUE OUTFITTERS

To help you avoid dishonest outfitters, law-enforcement agencies and legitimate outfitters suggest the following guidelines:

• Get a written contract. Don't place stock in telephone promises.

• Never pay cash. Always get a receipt. Paying a third to half the total in advance is considered standard. Never pay the full amount in advance.

• Be sure the prices quoted cover all costs, including sales tax.

• Check with the state agency that licenses outfitters and with the professional outfitter's association in that state. They can tell you if an outfitter is licensed and if previous complaints have been lodged against him. However, some states, such as Texas, New Mexico and Colorado, do not license outfitters.

• Ask the outfitter for references. Insist on having names, addresses and phone numbers of former clients who killed game and of some who did not (three of each is about right). Call or write all of them and find out what their hunts were like.

• Find out where and when you'll be hunting. If you'll be hunting on public land, contact the local office of the controlling agency to see if your outfitter has the necessary permits.

• Ask the outfitter all the pertinent questions you can think of: What type of hunt will it be? On what kind of terrain? What weather is considered normal? To what extent will horses be used? How many hunters will be assigned to each guide? How far is the camp from the trailhead? How much time will be spent traveling to the camp, and is that time considered part of the hunt for which you're paying? What equipment should you bring? Get answers in writing.

• Have all terms properly defined in writing. Exactly what does "wilderness hunt," "drop camp" or "horseback hunt" mean?

• If possible, visit an outfitter's base well ahead of your hunting dates. Summer vacation is a good time for this. The appearance of an operation often can give you an insight into the quality of services you'll be receiving.

• Don't be misled by flashy brochures and photos of trophy heads. Anyone can print a brochure.

• Beware of claims of extremely high success ratios. Most legitimate outfitters don't guarantee success.

• Report illegal and unethical activities. Also notify the appropriate outfitter's association.

Sportsmen obviously have good reason to avoid this kind of operation, but if a rogue is providing an adequate service—as some do—should hunters still avoid him? Yes, for several reasons.

First, they're breaking the law if they don't. "Sportsmen had better realize that they're part of an illegal operation if their outfitter does not have the proper licenses and permits," warns James Baughman of the Idaho Outfitters and Guides Board.

"It's like driving the car at a bank robbery," explains a Colorado official. "The driver is as guilty as the robbers, though he never set foot inside the bank."

Second, if something goes wrong during a hunt, a rogue is likely to put his own interests ahead of his clients.

A few years ago, a female cook in an illegal Wyoming hunting camp wandered away and got lost. She spent three cold nights in the woods, suffered severe frostbite and eventually became crippled because her rogue employer refused to call in searchers. Why hadn't he? He knew that if he did his illegal operation would be detected and he could end up in court. "If that's how they treat their employees," asks an investigator, "how do you think they'll treat a client in an emergency?"

Also, sportsmen hiring an illegal outfitter have little recourse when they see they're being ripped off because they're breaking the law just as the outfitter is. Illegal outfitters know they're protected this way, and they aren't going to be nearly as concerned about giving quality service.

Then there's the respect most sportsmen feel for wildlife and land resources. Rather than encouraging illegal and unethical activity by employing rogues, sportsmen should help law-enforcement officials eliminate rogues. "Turn in the scoundrels!" officials plead.

But even when authorities have the proof, taking rogues to court can be frustrating. Again, the only figures available are for the Forest Service's Region 1. In 1979, that region prosecuted 11 illegal outfitters, but only $800 and six months time were assessed in penalties.

"More than once we've spent a lot of money, put together an undercover operation and pulled the whole case together, and the judge fined the rogue $100," Bill Longacre told me.

James Baughman says an illegal outfitter may gross $5,000 on a group of hunters and get fined a couple of hundred dollars if caught. "Small fines like that have a nuisance value and that's all," Baughman told me.

Rogues are well aware of the courts' approach to illegal outfitting. One Idaho rogue was hauled into court for guiding a group of nonresident elk hunters. His fees had totaled $4,000. The judge found him guilty and meted out a $300 fine. As the rogue left the courtroom, he turned to the judge, smiled and said, "I'll see you again next year." For some, the fine is just another cost of doing business.

Despite courtroom disappointments, law-enforcement officials are attacking the problem. Several states and the Forest Service use undercover agents to sign on with illegal outfitters. Authorities have begun to push for maximum sentences and to take rogues to court early in a hunting season so that their hunting licenses might be lost for that year. And legitimate operators work hard to combat their illegal competitors.

Several state and federal agencies in Montana have teamed up to create an Illegal Outfitter Task Force.

And most rogues—in Montana and elsewhere—would much prefer not to get caught. One unlicensed outfitter was about to take several clients on a float trip down Idaho's Salmon River when a Forest Service official arrived. The rogue appeared nervous as he provided a lengthy story to support his claim of legitimacy.

"We'll check out your story," the officer said. "If you're not telling the truth, we'll be waiting for you at the other end."

Just a few miles downstream, the rogue beached the rafts. He got out and set off on foot, leaving his gear behind and his guests to fend for themselves. Officials later traced his route as he hitchhiked to Colorado, never to be seen in Idaho again.

What can sportsmen do to help? First, remember that most outfitters are honest and reliable. Make a strong effort to hire them, not their illegal competitors.

Second, report violators to the proper authorities. Hunters, fishermen and other clients are easily the best source of information about unethical operators. If sportsmen become quick to turn in violators, the thief in the woods may soon become an endangered species.

FISH ON!

continued from page 43

at the cloud cover and read his meter. He reset the camera for proper exposure and said, "Where is he now?".

I told him. The salmon jumped twice, but they were the tired jumps of a spent fish, not a fair representation of a bright Newfoundland salmon's dramatic response to an angler's strike.

That night I did some thinking. If I were a salmon and had traveled thousands of miles to return to my native river before deciding where to rest, I wouldn't want to leave. If, while I was lying there, a sea louse on my side gave me a sharp bite, what would I do? I decided that I might squirm a little or rub my side against the bottom, but I certainly wouldn't leave the place I'd selected so carefully. I knew then what I would do the next day.

By the time I hooked a salmon Ralph was relaxing against a tree stump some distance away. After setting the hook just hard enough to sink the barb, I gave the fish slack, and it dropped right back into its carefully selected lie.

"Ralph, I've got a salmon on," I called.

He was beside me in an instant. "Where is it?" he asked.

"See that white rock on the streambed out there?" I replied. "He's about six feet upstream. Set the camera for slow motion and use the three-inch lens. When I hear the camera rolling I'll tighten up, and ten to one he'll jump."

When I heard the camera whirring, I tightened my line, and the salmon showed us some beautiful jumps, beginning, as all good jumps should, with his nose suddenly

Jailed guilty of animal cruelty counts

Roland Cheek of Columbia Falls was found guilty on two counts and innocent on a third count of cruelty to animals by a Justice Court jury Friday.

The jury debated more than five hours before returning the verdict in the court of Justice of the Peace Jane Riedel.

Cheek was charged in January with eight counts of cruelty to animals after one of his horses died and neighbors reported others in a field at Sullivan's Crossroads were in poor condition.

Later the complaint was amended with count one the dead horse known as "Dang It;" the second count six other horses in poor condition; and the third count the other 17 horses in the pasture.

The horses were used by Cheek in his outfitter and hunting guide business in the Bob Marshall Wilderness.

The case began at 8:30 Tuesday morning and continued daily until Friday at 11 a.m. when the matter went to the jury for a decision. The decision had to be unanimous among the one man and five women on the panel. The jury elected a chairman, had lunch and settled down to review of the evidence and testimony. They returned their verdict after 5:30 p.m. Friday.

The state's witnesses during the week emphasized the poor quality and quantity of horse feed in the pasture, the lack of drinking water, lack of shelter during extremely cold temperatures, the fact the horses hadn't had shoes removed before being placed in the pasture and that some had saddle sores which were not cared for.

The defense called witnesses who said the animals were cared for in a manner in keeping with typical Montana horse care for open winter range, that the horses did not need water when they had snow, and also that they were able to paw through to pasture grass underneath. They also showed samples of the supplemental hay feeding they said took place.

The charges were filed in January. Cheek entered an innocent plea Feb. 2.

A parade of witnesses for each side of the case filed through the justice court in the four days. The state called 17 including veterinarians, the Flathead County animal warden, neighbors and local newspaper photographers who testified to the condition of the pasture and the horses in early January.

The defense called 12 witnesses including members of the Cheek family, Cheek, outfitters and neighbors who had ridden and cared for the horses in the wilderness.

Sentencing on the two counts will be scheduled later by Riedel, and most likely will be this coming week, she said.

The county attorney's office was represented by Dennis Hester and the defense by Dean Jellison.

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Ralph Jackson, former building inspector for the city of Kalispell, related the story to a Kalispell friend. The two met at an airport in Eastern Montana and the conversation fell into one of the top topics of the day: the energy crunch.

Jackson said he could buy all the diesel fuel and gasoline he wanted, and there were absolutely no shortages, no lineups at fuel pumps.

One hitch to the whole thing, the fuel bonanza is taking place in the country where Jackson moved to after leaving Kalispell employment: Costa Rica.

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Outfitter admits rip-off of clients

By ROBERT EKEY
Gazette Bozeman Bureau

BOZEMAN — A Wilsall-based outfitter has pleaded guilty to a series of criminal charges in Gallatin County, leading to suspension of his outfitting activities for two years and fines of $3,000.

Tom Brogan pleaded guilty to five misdemeanor charges, including misrepresentation of services and illegally shooting a moose. In exchange for the guilty pleas, charges of witness tampering were dropped in Park County and other minor charges were dropped in Gallatin County.

The convictions ended a yearlong investigation by the Department of Fish, Wildlife and Parks into Brogan's outfitting business, which is one of the largest in the state and one that generated frequent complaints.

Jim McKenna, an assistant prosecutor for Gallatin County, said the most important charge against Brogan involved the misrepresentation of services.

"He really ripped off those hunters. They paid $1,300 each for seven days of hunting and they were sleeping in mud in old, rotten canvas tents. The food was terrible," McKenna said. "They were really angry.

"We felt from the beginning misrepresentation was the most important charge because it hurts honest outfitters," he said.

Bill Maloit, an outfitter enforcement officer for FWP, said the misrepresentation of services was a common complaint about Brogan's business.

"We had complaints just about every year on that basis. It is a difficult thing to prove, an expensive thing to bring back people to testify. This year we had concrete evidence and people willing to come back and testify," Maloit said.

The state's outfitter council will now hear complaints concerning Brogan and his guides. The complaints ask for a revocation of Brogan's outfitting license.

As one of the state's largest outfitters, Brogan's business guided 60 to 70 hunters per year.

Several years ago, some editors from the Milwaukee Journal signed on. The result was a three-part series in the Journal on how nice the country and Montanans were to the editors — but how poorly they had been treated by Brogan, Maloit said.

"When these kinds of things happen, it gives the industry a bad eye. There are good outfitters out there, but there are some that have larceny at heart and those are the ones that create problems," Maloit said.

Brogan had been charged in Park County with two felony counts of tampering with witnesses and nine misdemeanor charges in Gallatin County, including misrepresentation, illegally shooting a moose, equal responsiblity for alleged criminal acts of his guides, and filing false outfitter reports.

Prosecutors agreed to the plea bargain, in part, because of the cost of bringing witnesses from other states to testify, according to Mike Murphy, an assistant attorney general who was involved in prosecuting some of the charges.

Brogan pleaded guilty to:

- Misrepresentation of services, $500.
- Equal responsibility, $500.
- Illegally taking a moose, $1,000.
- Equal responsibility, $500.
- Misrepresentation, $500.

Maloit said that FWP wardens Ron Carlson of Big Timber and Dave Etzweiler of West Yellowstone worked to build the case against Brogan. The investigation included dozens of interviews with clients and guides, with many of the clients spread across the country.

Murphy said that part of the plea bargain in Park County calls on Brogan to assist in the continuing investigation of alleged illegal activity by his guides and patrons.

Disgruntled hunters sue guide

By KAREN E. DAVIS
IR Staff Writer

The president of the Montana Outfitters and Guides Association has been sued for fraud by two South Dakota brothers who allege they hired him expressly to hunt a grizzly bear, which they didn't get.

The five-day trial before Helena District Judge Gordon Bennett went to the jury Friday afternoon, but had not reached a verdict by presstime.

Outfitter Tag Rittel of Wolf Creek was also sued under the Montana Consumer Protection Act, for an unfair business practice, i.e. selling his outfitting business, the Black Tail Ranch, and allegedly not telling the two men that someone else would be their guide.

The suit stated that Lloyd and Larry Weaver had signed up for a 10-day hunting trip with two guides — including Rittel -- and various promised camp ammenities. They allege that the guides they got had never been in the Scapegoat Wilderness — the area of the hunting camp — before, didn't know what they were doing and had never hunted grizzlies before. They also complained about the food, about having to stand in camp, about the lack of a promised cook tent, and the fact that two days were used to pack in and out so they only hunted eight days instead of 10.

The Weavers asked for $25,000 in actual and emotional damages, and unspecified punitives. The trial revolved on whether or not the Weavers were specifically promised a grizzly hunt — or a general hunt — and if they were specifically promised Rittel as a guide.

Three other parties sued by the Weavers all settled out of court just before the trial started Monday, a fact the jury wasn't told. The Weavers had also sued Jack Atcheson and Sons, Inc., of Butte, who booked the hunt; Ron Brinker, the guide who bought the outfitting business from Rittel and took the Weavers out; and J.R. Burns, a guide who worked for Brinker.

Brinker, who had put $35,000 down to buy Rittel's $100,000 business, has since defaulted and turned it back to Rittel, who has sold it again.

According to court briefs and almost three hours of closing arguments Friday morning, the Weavers approached Atcheson in April, 1982 to book a grizzly hunt in Montana. He wrote back that Montana wasn't really the state for it, but an outfitter he knew — Rittel — had had some luck hunting grizzlies, and put them in touch with each other.

Rittel maintained that he signed them up for a general "horseback elk hunt" and that he never promised to personally be their guide.

Attorneys for both sides made as much as they could in their closing arguments of contradictions in both written exhibits and testimony. Atcheson sent the Weavers his information on Rittel, which mentioned "since you're hunting elk and bear...getting a grizzly is Montana is a tough proposition, but, never the less, Tag has taken his share."

But another letter mentioned their hunt "for grizzly as a primary."

In addition, Brinker and Burns weren't technically licensed by the State as guides until the middle of the hunt, because they hadn't mailed their applications in.

Cumins also mentioned that Rittel had never in his career taken anyone on a hunt specifically for grizzly, and had told the Weavers to be sure and have a general license.

Expert testimony from game wardens during the trial revealed that only 30 of the 115 grizzlies killed by hunters from 1973-81 had been taken by outfitters, and that the state sells 400 grizzly licenses a year, but closes the grizzly season after 25 animals have died from any cause.

The Weavers' attorney Jon Motl stated in closing arguments that they were never told of the "financial relationship" between Brinker and Rittel, and spent days in the hunting camp under the impression that Rittel was eventually showing up. "They didn't know they had been transferred like a slab of meat," he said.

Rittel's attorney Robert Cummins, however, characterized the Weavers as modern day "Grizzly Adams'," who only started to care about how the hunt turned out when pressured later by their father. He called their case "full of hooey" and "red herrings."

The Weavers did see a grizzly their first day, he recounted, and killed two deer, shot an elk and wounded a black bear.

France gets fined $100 in elk case

By ROBERT EKEY
Gazette Bozeman Bureau

VIRGINIA CITY — Former Madison County Sheriff Johnny France, who gained national attention for capturing two fugitive mountain men, Tuesday was convicted of chasing elk on a snowmobile.

FRANCE
ex-sheriff

France was fined $100 and had his hunting privileges revoked for two years by Virginia City Justice of the Peace Barbara Brook.

France, 46, quietly admitted that he chased elk while he was on a snow machine and chased elk for several hundred yards on Nov. 16.

Tuesday's court hearing was the result of a 2-month investigation after 11 witnesses complained that France had chased elk on a snow machine and had illegally possessed an elk. Peter Funk, an attorney for the Department of Fish, Wildlife and Parks, said the guilty plea by France and fine were negotiated with his attorney.

Funk said the chasing elk with the motorized vehicle was the only criminal charge ever considered against France.

France gained national fame in December 1984, when he single-handedly captured mountain men Don and Dan Nichols, who had been fugitives for five months for kidnapping a Bozeman athlete in the mountains near Big Sky, shooting her and killing a would-be rescuer.

Since the national notoriety and the mountain-man trials, France has been slipping in popularity in Madison County. He was voted out of office in the June primary election, being defeated by one of his own deputies. He tried a write-in campaign in the November election but came in third, losing to another write-in candidate.

After the election came the complaints about the game violations. The complaints came from two groups of hunters and some workers on a drilling rig.

The complaints were investigated for nearly two months by the Department of Fish, Wildlife and Parks.

Funk said he was asked to prosecute because the Madison County prosecutor bowed out claiming a conflict of interest. A special prosecutors' office of the attorney general's office also said it could not prosecute France because of their involvement in the Nichols case.

Funk said Tuesday's conviction will not affect France's fishing-guiding business in the Bear Trap Canyon of the Madison River.

Outfitter trespass nets federal fine

Ravalli Republic
1/9/87

An outfitter and hunting guide cited for driving behind a closed gate on the Bitterroot National Forest has been fined $100.

Dave Walker of Darby pleaded guilty to the charge before federal magistrate Tom Murray in Missoula on Dec. 22.

The incident occurred on the West Fork Ranger District during the 1986 Montana hunting season.

Bar owners protest more wine, beer outlets

By The Associated Press

If Initiative 94 is approved by the voters next Tuesday, drunken driving will increase in Montana and it will be more difficult to control underage drinking, a spokesman for the Committee to Keep Montana's Limit on Beer and Wine says.

"We respect the right of people to enjoy restaurants where beer and wine aren't served, and we think I-94 would greatly restrict the number of restaurants with non-drinking, family atmosphere," committee spokesman Don Larson said Tuesday.

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AROUND MONTANA

Hunter shot by his own guide

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Taylor said Smith had left the truck to relieve himself. Smith said the first shot sprayed dirt near him, and he yelled before Taylor fired the second time, according to Cornelson.

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Dye said the incident appeared to be an accident and said he didn't expect to file charges.

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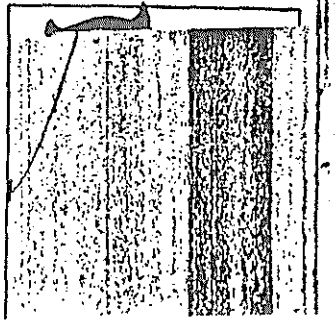

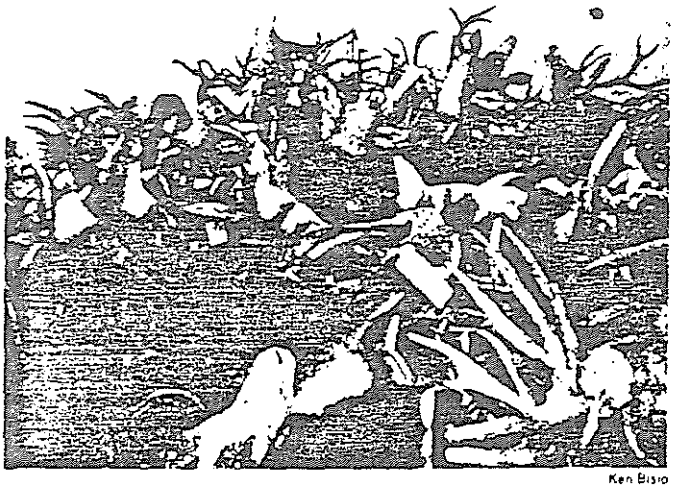

Ken Bisio

Photos © Laurance Aiuppy

Illegal spoils in the Rockies: Animal trophies seized by the federal government, an agent examines a cache of bighorn sheep skulls

Stingtime for Poachers

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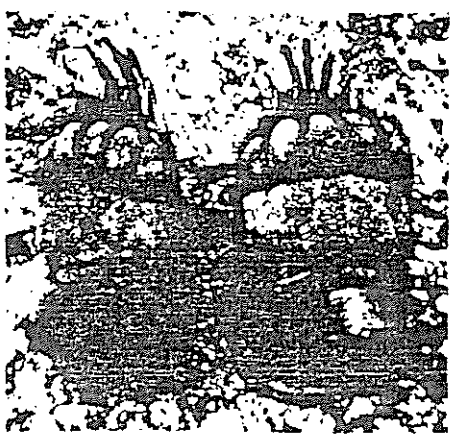
The Colorado operation illustrates the service's new emphasis on "sting" work. In the past, Fish and Wildlife agents and their state counterparts looked on themselves simply as game wardens, keeping an eye out for the rural poacher who killed to feed his family. With the upsurge in commercial exploitation of wildlife on public land, however, that attitude is changing rapidly. In recent years, federal agents have been deployed undercover to combat poachers in Alaska, where walruses are being hunted for their tusks; in California, where Indians have been accused of sweeping king salmon from streams with gill nets, and around Lake Erie, where in one case 1 million pounds of walleye were lifted illegally. Agents have also tracked Indians who kill bald eagles for their feathers. "This commercialization of wildlife has been prevalent in Africa, Europe and Asia for years," said Terry L. Grosz, the Fish and Wildlife Service's enforcement chief in the Rockies. "We're just finally catching up to [it]."

The reason for the rise of poaching in the United States is straightforward profitability. The Colorado ring allegedly hunted black bears as a sideline to obtain their gallbladders and paws—two items prized by Asians. Small enough to fit inside film canisters, the bladders are sold by hunters to dealers in the United States for $100 apiece and retailed in Asia for $3,000, where in dried form they are marketed as medicine and aphrodisiacs. Bear-paw pads are sold as food (a dinner can run to $150), and grizzly claws for necklaces. Until late in 1981, when well-publicized arrests by the California Department of Fish and Game seemed to scare off much of the trade, illegal hunts were making serious inroads into the California bear population.

Aphrodisiacs: The Asian herbal-medicine market accounts for what is perhaps the West's most persistent poaching problem: the trade in elk antlers. Sold to Asians both here and abroad, ground elk antlers are used in everything from vitamins to aphrodisiacs. Every year representatives of Korean buyers make their way to tiny Gardiner, Mont., which abuts Yellowstone National Park; they assemble at the Blue Goose Bar—the hangout for "horn hunters." Hunters get $6.50 a pound, with the average set of antlers weighing 25 pounds. Dealers make their profits, too: ground antlers sell for $42 an ounce in San Francisco, says one agent who estimates that $1.5 million to $2 million worth comes out of the Yellowstone area each year.

Grizzly paws: Claws make prized jewelry



Antler hunters can be ruthless. The U.S. attorney in Cheyenne, Wyo., is expected to announce soon the indictment of poachers who last year allegedly chased to exhaustion at least eight winter-weakened elk inside Yellowstone. After hacking the antlers off their heads, they left them to bleed to death. In most cases, though, elk antlers can be obtained without killing. Horn hunters sneak around Yellowstone and neighboring areas each spring, collecting the antlers the bull elk have shed. Federal law prohibits the removal of any natural features from a park, and the rangers take that to include the cast-off antlers. This spring Yellowstone recruited rangers from other parks—raising their numbers from two to seven—and set up decoy piles of antlers with hidden cameras to try to catch the poachers in the act. The result: 28 arrests, about half the number of horn hunters apprehended in 1982. "They're getting better every year," grumbles ranger Randy King.

With current penalties for poaching rarely exceeding a light fine, the only way to curtail it is to prohibit the buying and selling of game-animal parts. That has already been done in California and Oregon. However, Colorado, Wyoming and Montana, home to great herds of big game, allow trophies or antlers to be sold provided they are taken legally—and the contrary can seldom be proved. For the game police, then, the only recourse is undercover work. "The resource we are protecting is limited," says one agent. "So I want these guys to know something—their next partner may be us."

MICHAEL A. LERNER with JEFF B. COPELAND in Denver

Meagher County News

White Sulphur Springs, Montana 59645—Thursday, December 6, 1984 PRICE 25 CENTS

Unscrupulous hunting consultant . . .

Hunting license transfers bring justice court charges

"This is just the tip of the iceberg" stated Montana Department of Fish, Wildlife and Parks Warden Gene Clark in describing the uncovering of a Michigan hunting consultant's transfer of nonresident hunting licenses to his clients who were unable to obtain the proper licenses in legal state drawings. Clark said that he is presently heading up an investigation which involves game wardens in Kansas, Michigan, Wyoming and Montana and that more charges will be forthcoming as the investigation unravels additional evidence.

Dennis Salsgiver of Davison, Michigan, who operates Grand Slam Hunting Consultants, plead guilty to a charge of transfer of license, a misdemeanor, in Justice of the Peace Court of Vernon Meyers Monday, November 26. A second charge of solicitation to hunt a big game animal within the State of Montana without first having obtained a proper license or permit to do so, was dropped in a plea bargain agreement reached with Meagher County Attorney John V. Potter. Salsgiver was fined $500 and forfeited hunting and fishing privileges and licenses within the State of Montana for a period of 24 months after date of his conviction.

Two hunters from Overland Park, Kansas, an outfitter from Livingston, and a couple from Flint, Michigan were involved in the original case against Salsgiver.

Clark went on to say "It looks like transfer, even buying and selling of the B10 $300 non-resident license may be more than just an occasional happening, but a thriving black market. With the limit of 17,000 and the speed of sell out, they will even be more endeared to the hunter of the future with no limit to the imagination of the unscrupulous booking agent like Salsgiver."

Clark further pointed out that these agents, like a travel agent, furnish a valuable service to both the hunter and the outfitter, but that there is no room in the hunting world for the dishonest types. "Clean up or stay out of Meagher County" was his comment.

Warden Clark went on to describe how the investigation uncovered Salsgiver's operation and the ultimate charges brought against him.

The first time that Warden Clark learned of Dennis Salsgiver was during a conversation with rancher-outfitter Bill Galt while Clark and Galt were discussing the 1984 hunting season and an upcoming trophy auction of confiscated items to be held in Bozeman. Galt told Clark that he was working with a booking agent named Dennis Salsgiver and that he also had expressed an interest in the trophy auction.

Galt, Clark and rancher Bill Loney made plans to attend the trophy auction, but when time came to go, Galt and Loney were unable to attend. Clark on his day off, his wife Alice and Pam Loney, Bill's wife, attended the sale.

During the sale a person doing a lot of bidding and buying attracted Clark's attention and upon checking with a clerk at the auction Clark learned that the buyer was Dennis Salsgiver. Eleven different lots at the auction went to Salsgiver, including a black bear cape, a mountain lion hide, five bighorn sheep horns and four bighorn sheep capes for which he paid a total of $1,635.00.

Later on in late June or July, when Clark was discussing the upcoming fall hunt with Bill Galt, the name of Salsgiver again came up. Salsgiver had promised to book a certain number of whitetail deer hunts for Galt for a free deer hunt for himself. When Galt contacted Salsgiver to see if he could still find a hunter or two, he was informed that it would be no problem. Galt questioned Salsgiver about the fact that all the licenses had been sold, but he was told that would not be a problem.

Early in September Clark went on to state that he had learned that outfitter Doug Caltrider was also booking hunters through Dennis Salsgiver, doing business as Grand Slam Hunting Consultants. Part of the booking bargain was also a free hunt with Caltrider.

A young couple from Flint, Michigan, Thomas and Nancy Durance, booked hunts through Dennis Salsgiver for elk and mule deer with Doug Caltrider and at the same time booked a whitetail deer hunt with Bill Galt.

The Durances, who had obtained their B10 non-resident elk and deer tags during the first come, first served non-resident quota of 17,000 licenses, were instructed by Salsgiver to apply for Deer B tags for Area 446, the whitetail area where they wanted to hunt with Galt. After the drawing, when the Durances found out that they were unsuccessful in obtaining the Deer B tags, they contacted Salsgiver, expressing concern over the fact that they already had booked the whitetail deer hunt, but now had no tags to hunt with.

Salsgiver told them at that time that tags would be no problem, and before the Durances left for Montana, Salsgiver personally gave Thomas Durance a nonresident Montana Hunting license that had been issued to Ralph E. Dawson of Overland Park, Kansas. The license was a B10 non-resident license, with all tags attached plus a 1984 archery stamp on the back. He also stated to Durance that he would make sure that Galt would have the other license for them when they arrived to hunt whitetail deer.

Salsgiver travelled to Montana to hunt whitetails with Galt before the Durances arrived. Salsgiver hunted with legal Montana licenses, a B10 $300 non-resident license and a non-resident Deer B tag for Area 446 good for either-sex whitetailed deer. At no time was any discussion had that he would be leaving any sort of license for the Durances during his deer hunt with Galt.

The Durances hunted with Doug Caltrider for their booked hunts, with Thomas Durance killing a 5x5 bull elk and a small whitetail buck and Nancy Durance killing a 4x4 bull elk and a 5x5 mule deer buck. With the taking of the elk and deer with Caltrider, the legally issued licenses of the Durances were used up. Caltrider recorded the names of the Durances, their license numbers and the type of game taken in his outfitter's log, required to be kept and submitted by all licensed outfitters in the State of Montana.

Although Salsgiver had been in the area hunting with Galt, he did not hunt with Caltrider.

After the deer and elk hunt with Caltrider, on November 5, the Durances and Caltrider met with Bill Galt for the whitetail deer hunt. The subject of deer tags came up in the conversation and Galt asked to see their licenses. At that time the license made out to R. E. Dawson was presented with the statement that Galt was supposed to have the other license for them.

The Durances stated that Galt was surprised and upset when the Dawson license was presented and the statement made that he was supposed to have a deer license for them. He told them that he was not taking them hunting without valid tags or with someone else's tags.

(Continued on Page Two)

Illegal-hunting sting hauls in 34 suspects

By LORNA THACKERAY
Of The Gazette Staff

Thirty-four people, including 11 Montanans, were arrested Thursday morning at the conclusion of a two-year undercover operation aimed at illegal hunting and trading in big game animals.

Some of the arrests resulted from an undercover tanning and taxidermy business operated in Colorado by the U.S. Fish and Wildlife Service. Others stemmed from illegal hunts arranged in Montana just outside the Yellowstone Park area.

"They've been bleeding those mountains around here," one Sweet Grass County official said after the arrests. He said illegal hunting had a significant impact on the number of animals found in the area.

Seventeen felony warrants and one misdemeanor complaint were filed by Pete Dunbar, U.S. attorney for Montana, in "Operation Trophy Kill." The remaining indictments came from Colorado. People from nine states will be charged.

U.S. Magistrate Jack Shanstrom arraigned 13 defendants Thursday in Livingston. Bonds for the suspects ranged from $25,000 to $350,000. These defendants will enter pleas to the changes before U.S. District Judge James Battin 10 a.m. Tuesday.

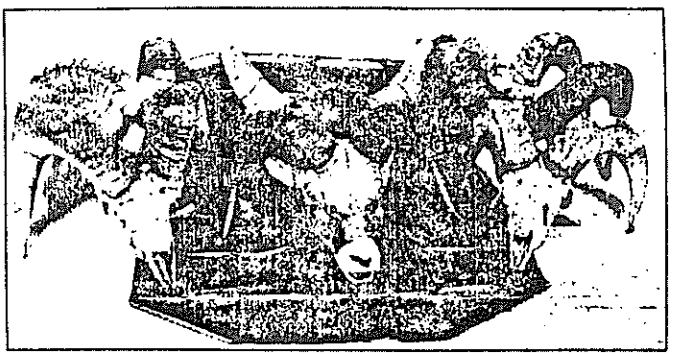
This is the second major wildlife case brought in Montana in the last four months. More than 30 people were arrested at the end of June in connection with an undercover investigation involving smuggling of endangered birds of prey.

Among those arrested was Loren J. Ellison, 33, of Livingston, who was charged with 14 counts of illegal sale and transportation of wildlife. Bond for Ellison was set at $350,000. Ellison was arrested on similar charges last month in a sting investigation by Sweet Grass and Park County officials.

According to Dunbar, federal agents used the tanning and taxidermy business to detect smuggling of wildlife skins into the United States and to uncover trade in protected species of big game and rare birds.

Some charges allege illicit trade to the Orient, where certain wildlife parts, such as elk antlers in velvet, are believed to have medicinal and aphrodisiac powers. He said federal agents also posed as hunters to gather evidence on illegal hunts organized by some of the defendants.

(More on Trophy, Page 12A)



Three Bighorn sheep skulls and heads, above, taken or possessed illegally were part of the evidence gathered in Operation Trophy Kill. Also seized in the sting were the two spotted skins of endangered cheetah and jaguar, left, smuggled into the United States.

U.S. Fish & Wildlife Service

Continued stories

Trophy

From Page One

Most of the Montana charges involve interstate transportation of illegally taken wildlife, including the following species: bighorn sheep, mountain goats, elk, mule deer, black bear, antelope, mountain lion, bobcat, golden eagle and lynx.

Many of the charges were filed under the Lacey Act. Under the act, federal charges can be filed using the guidelines of state law, including regulations on hunting seasons and licenses.

DUNBAR SAID the investigators discovered that selling some animal parts is a lucrative business.

"Bighorn sheep skulls might sell on the black market for as much as $5,000," he said. "Finished and tanned tiger and jaguar skins can sell for $3,000 to $4,000. Bear gall bladders — prized in the Far East for their supposed medicinal and aphrodisiacal values — can bring $3,000 a pound when properly ground, while other bear parts are used in bearpaw soup, which is considered a delicacy."

The Colorado charges involve more exotic animals including tigers, jaguars, leopards, Florida panthers and the American crocodile. These animals are prized for their skins.

The Montana indictments were handed down Sept. 28 by a grand jury convened in Billings. Indictments allege that violations took place between Jan. 7, 1983, and June 22 of this year. Penalties range as high as five years in jail and/or $20,000 fines.

THE OPERATION REQUIRED the cooperation of several federal, state and local agencies, Dunbar said. Those participating included U.S. Fish and Wildlife; National Park Service; Montana Fish, Wildlife and Parks; U.S. Marshalls Office; U.S. Forest Service; Livingston Police Department; and sheriff's offices in Park, Sweet Grass, Broadwater and Gallatin counties.

Each agency participated in the investigation and arrests, as well as the searches conducted in the investigation.

Those arraigned by Judge Shanstrom Thursday were:

- Loren Jay Ellison, 33, Livingston, charged with 14 counts of violating federal and state laws against taking, transporting, buying or selling of illegally taken game animal parts, including golden eagle, elk, lynx, mountain goat and mule deer parts. He is also charged with five counts of conspiring to violate federal and state game laws by offering guide services without a license and taking big game animals in violation of federal and state regulations. His bond was was set at $350,000.
- Claudie Lee Buttrell, 25, Big Timber, charged with five counts of conspiracy. Bond was set at $50,000.
- Victor Lee Gibby, 26, Big Timber, charged with two counts of violating state and federal game laws regarding mountain goats and black bear parts. Bond was set at $50,000.
- Ralph Wilfred Clark, 44, Big Timber, charged with one count of violating federal and state game laws regarding mountain lion parts. Bond was set at $50,000.
- Timothy Glen Dauenhauer, 32, Livingston, charged with one count of violating federal and state game laws, regarding big horn sheep parts. Bond was set at $25,000.
- Howard "Hap" Roberts, Big Timber, charged with one count of violating federal and state game laws regarding big horn sheep parts. Bond was set at $25,000.
- Michael Douglas Furtney, no address listed, charged with a misdemeanor violation. Bond was set at $25,000.
- Docia Pearson Jole, 26, Townsend, charged with one count of violating federal and state game laws regarding illegally taken big horn sheep and antelope parts. Bond was to be set later.
- Danielle Yvette Delorme, Livingston, charged with one count of violating game laws regarding illegally taken elk parts. Bond was to be set later.
- Robert George Johnson, 37, Alliance, Neb., charged with one count of conspiracy. Bond was to be set later.
- Terry Cray Stenberg, 29, Livingston. No charges were available. Bond was set at $100,000.
- Clyde Edwin Chapel, 26, Provo, Utah. No charges were available. Bond was to be set in Utah.

ALSO ARRESTED WERE Lloyd John Jole, 40, and George Calvin Smith, 43, both of Townsend. Still at large are Harvey Nels Amundsen, 28, Big Timber; Roy Roger Hankins, 39, no address given; and Tom Williams, no age or address given.

Another suspect, Ken Fike, will be served with court papers in Arizona, where he is in prison, Dunbar said.

Prosecution will be handled by Robert L. Zimmerman, chief prosecutor for the office in the Montana U.S. attorney's office, and Chris Nuechterlein, of the U.S. Department of Justice.

Colorado authorities issued this list of 17 people charged there:

Tillman Niblett, a Davis, Okla., international hunting and fishing guide, for unlawful sale and transportation into this country of endangered wildlife; Brian Gaisford, an employee of the Hemingway African Gallery in New York, for the same charges; Steven J. Ackerman, a Pensacola, Fla., taxidermist, for unlawful sale and offer of sale of endangered wildlife and migratory birds; and Morton J. Greene, of Mount Lebanon, Pa., for conspiracy to defraud the government and unlawful sale of endangered wildlife.

Also charged were Jung T. Wang, president of U-JIN Enterprises of San Francisco, for unlawful transportation of a polar bear and unlawful purchase of bear gall bladders; Kyune Hyong Kim and Peter Kim, operators of Pescal Enterprises of Carson, Calif., for unlawful purchase of bear gall bladders; and Thomas Radoumis, owner of DeJon's Taxidermy in Rosemead, Calif., for unlawful sale and transportation of endangered wildlife.

CHARGES OF CONSPIRACY to smuggle the skins of endangered wildlife into the United States were filed against Steven and Connie Murray, operators of Trips Unlimited in Edinburg, Texas; Michael Maynard, McAllen, Texas, operator of Odyssey Travel Service; and Sergio Nocedal, a customs agent in Reynosa, Mexico.

Douglas Gish, operator of Head's West Taxidermy in Denver, and Warren Parker of Blue Springs, Mo., face a charge of unlawful purchase of merchandise illegally brought into the United States; Philip Turnbull of Oakland, Ore., is charged with unlawful sale of wildlife; Kurt Fox, operator of Fox Studio Taxidermy in Cold Springs, N.Y., with unlawful purchase of endangered wildlife; and John R. "Foxy" Davis, of Silver Springs, Fla., with unlawful purchase of endangered wildlife.

Mille said all the defendants except Nocedal, Green, Davis and Wang have been arrested. Gish was issued a summons to appear in court and was not arrested, he said.

Bar owners protest more wine, beer outlets

By The Associated Press

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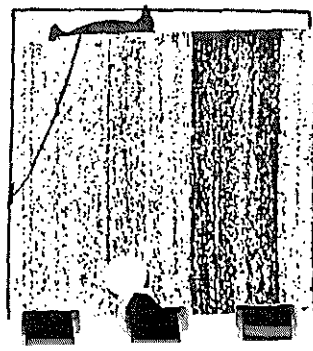

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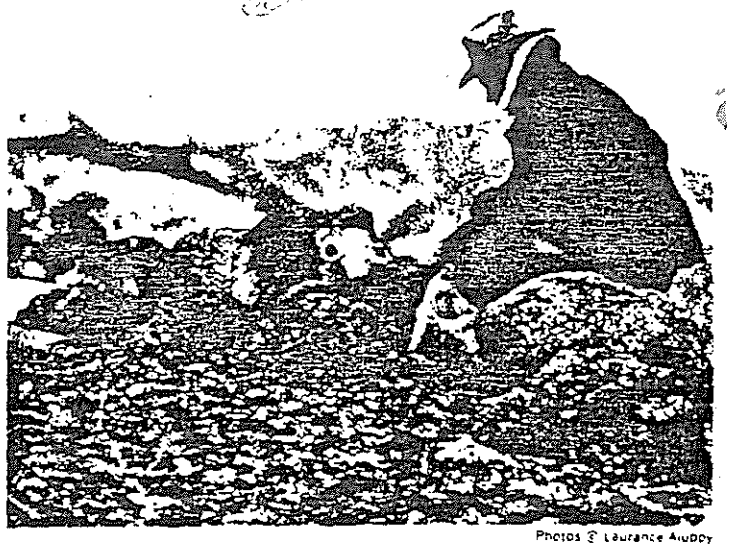

Photos © Laurance Aiuppy

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Stingtime for Poachers

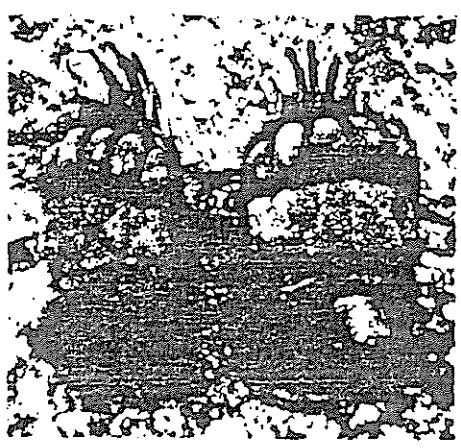
They are accused of offering the most-prized trophy animals of the Rockies, and for prices ranging from $2,500 to $20,000—depending on the beast—a kill was guaranteed. How could a hunting business make such a promise? By guiding clients onto public land after the fall hunting season closed, when elk, bighorn sheep, mountain goats and mountain lions are at lower elevations and much less on their guard. Last week, thanks to five undercover agents for the Fish and Wildlife Service, the business abruptly went out of business. Seven hunting guides, including Denver police detective Dale Leonard, were indicted in Colorado, and nine more indictments are expected in Montana. State and federal agents claim they have cracked the biggest poaching ring ever uncovered in the Rockies.

The Colorado operation illustrates the service's new emphasis on "sting" work. In the past, Fish and Wildlife agents and their state counterparts looked on themselves simply as game wardens, keeping an eye out for the rural poacher who killed to feed his family. With the upsurge in commercial exploitation of wildlife on public land, however, that attitude is changing rapidly. In recent years, federal agents have been deployed undercover to combat poachers in Alaska, where walruses are being hunted for their tusks; in California, where Indians have been accused of sweeping king salmon from streams with gill nets, and around Lake Erie, where in one case 1 million pounds of walleye were lifted illegally. Agents have also tracked Indians who kill bald eagles for their feathers. "This commercialization of wildlife has been prevalent in Africa, Europe and Asia for years," said Terry L. Grosz, the Fish and Wildlife Service's enforcement chief in the Rockies. "We're just finally catching up to [it]."

The reason for the rise of poaching in the United States is straightforward: profitability. The Colorado ring allegedly hunted black bears as a sideline to obtain their gallbladders and paws—two items prized by Asians. Small enough to fit inside film canisters, the bladders are sold by hunters to dealers in the United States for $100 apiece and retailed in Asia for $3,000, where in dried form they are marketed as medicine and aphrodisiacs. Bear-paw pads are sold as food (a dinner can run to $150), and grizzly claws for necklaces. Until late in 1981, when well-publicized arrests by the California Department of Fish and Game seemed to scare off much of the trade, illegal hunts were making serious inroads into the California bear population.

Aphrodisiacs: The Asian herbal-medicine market accounts for what is perhaps the West's most persistent poaching problem: the trade in elk antlers. Sold to Asians both here and abroad, ground elk antlers are used in everything from vitamins to aphrodisiacs. Every year representatives of Korean buyers make their way to tiny Gardiner, Mont., which abuts Yellowstone National Park; they assemble at the Blue Goose Bar—the hangout for "horn hunters." Hunters get $6.50 a pound, with the average set of antlers weighing 25 pounds. Dealers make their profits, too: ground antlers sell for $42 an ounce in San Francisco, says one agent who estimates that $1.5 million to $2 million worth comes out of the Yellowstone area each year.

Grizzly paws: Claws make prized jewelry



Antler hunters can be ruthless. The U.S. attorney in Cheyenne, Wyo., is expected to announce soon the indictment of poachers who last year allegedly chased to exhaustion at least eight winter-weakened elk inside Yellowstone. After hacking the antlers off their heads, they left them to bleed to death. In most cases, though, elk antlers can be obtained without killing. Horn hunters sneak around Yellowstone and neighboring areas each spring, collecting the antlers the bull elk have shed. Federal law prohibits the removal of any natural features from a park, and the rangers take that to include the cast-off antlers. This spring Yellowstone recruited rangers from other parks—raising their numbers from two to seven—and set up decoy piles of antlers with hidden cameras to try to catch the poachers in the act. The result: 28 arrests, about half the number of horn hunters apprehended in 1982. "They're getting better every year," grumbles ranger Randy King.

With current penalties for poaching rarely exceeding a light fine, the only way to curtail it is to prohibit the buying and selling of game-animal parts. That has already been done in California and Oregon. However, Colorado, Wyoming and Montana, home to great herds of big game, allow trophies or antlers to be sold provided they are taken legally—and the contrary can seldom be proved. For the game police, then, the only recourse is undercover work. "The resource we are protecting is limited," says one agent. "So I want these guys to know something—their next partner may be us."

MICHAEL A. LERNER with JEFF B. COPELAND in Denver

STANDING COMMITTEE REPORT

March 27, 1987 19

MR. PRESIDENT

We, your committee on Fish and Game

having had under consideration House Bill No. 406

Third reading copy (Blue color)

LICENSING OF OUTFITTERS BY BOARD OF OUTFITTERS IN DEPARTMENT OF COMMERCE

Representative Ed Grady (Senator ~~Jergeson~~)

Respectfully report as follows: That House Bill No. 406

be amended as follows:

1. Title, line 14.
Following: "ACT"
Insert: "AND A TERMINATION DATE"

2. Page 2, lines 21 to 23.
Following : "OUTFITTERS"
Strike: remainder of line 21 through "IS" on line 23
Insert: "who are"

3. Page 13, line 24.
Insert: "NEW SECTION. Section 14. Termination date. This act terminates June 30, 1991."

Amendments to HB 406
e:\7086d

AND AS AMENDED
BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Ed Smith Chairman.